

TRANSCRIPT OF PROCEEDINGS BEFORE
THE SENATE OF THE STATE OF TEXAS
EIGHTY-FIRST LEGISLATURE
(COMMITTEE OF THE WHOLE SENATE)
AUSTIN, TEXAS

IN RE: §
§
CONSIDERATION OF §
SENATE BILL 362 §

COMMITTEE OF THE WHOLE SENATE

TUESDAY, MARCH 10, 2009

BE IT REMEMBERED THAT AT 12:38 p..m., on
Tuesday, the 10th day of March 2009, the above-
entitled matter was heard at the Texas State Capitol
Senate Chamber, Austin, Texas, before the Committee of
the Whole Senate; and the following proceedings were
reported by Aloma J. Kennedy, a Certified Shorthand
Reporter of:

VOLUME 1A

PAGES 1 - 208

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P R O C E E D I N G S

TUESDAY, MARCH 10, 2009

(12:38 p.m.)

PRESIDENT DEWHURST: Members, the Senate will come to order. Pursuant to a resolution previously adopted, the Senate resolves itself into the Committee of the Whole for the consideration of Senate Bill 362. The senator from Lubbock, Sen. Duncan, will please take the chair for the duration of the proceedings in the Committee of the Whole.

(Off the record: 12:38 p.m. to 12:42 p.m.)

SEN. DUNCAN: The Committee of the Whole Senate will come to order. The secretary will call the roll.

ROLL CALL NO. 1

SECRETARY SPAW: Averitt?

SEN. AVERITT: (Indicated presence)

SECRETARY SPAW: Carona?

SEN. CARONA: (Indicated presence)

SECRETARY SPAW: Davis?

SEN. DAVIS: (Indicated presence)

SECRETARY SPAW: Deuell?

SEN. DEUELL: (Indicated presence)

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1 SECRETARY SPAW: Duncan?
2 SEN. DUNCAN: (Indicated presence)
3 SECRETARY SPAW: Ellis?
4 SEN. ELLIS: (Indicated presence)
5 SECRETARY SPAW: Eltife?
6 SEN. ELTIFE: (Indicated presence)
7 SECRETARY SPAW: Estes?
8 SEN. ESTES: (Indicated presence)
9 SECRETARY SPAW: Fraser?
10 SEN. FRASER: Here.
11 SECRETARY SPAW: Gallegos?
12 SEN. GALLEGOS: (Indicated presence)
13 SECRETARY SPAW: Harris?
14 SEN. HARRIS: (Indicated presence)
15 SECRETARY SPAW: Hegar?
16 SEN. HEGAR: (Indicated presence)
17 SECRETARY SPAW: Hinojosa?
18 SEN. HINOJOSA: (Indicated presence)
19 SECRETARY SPAW: Huffman?
20 SEN. HUFFMAN: (Indicated presence)
21 SECRETARY SPAW: Jackson?
22 SEN. JACKSON: (Indicated presence)
23 SECRETARY SPAW: Lucio?
24 SEN. LUCIO: (Indicated presence)
25 SECRETARY SPAW: Nelson?

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1 SEN. NELSON: (Indicated presence)
2 SECRETARY SPAW: Nichols?
3 SEN. NICHOLS: (Indicated presence)
4 SECRETARY SPAW: Ogden?
5 SEN. OGDEN: (Indicated presence)
6 SECRETARY SPAW: Patrick?
7 SEN. PATRICK: (Indicated presence)
8 SECRETARY SPAW: Seliger?
9 SEN. SELIGER: Here.
10 SECRETARY SPAW: Shapiro?
11 SEN. SHAPIRO: (Indicated presence)
12 SECRETARY SPAW: Shapleigh?
13 SEN. SHAPLEIGH: (Indicated presence)
14 SECRETARY SPAW: Uresti?
15 SEN. URESTI: (Indicated presence)
16 SECRETARY SPAW: Van de Putte?
17 SEN. VAN de PUTTE: (Indicated presence)
18 SECRETARY SPAW: Watson?
19 SEN. WATSON: (Indicated presence)
20 SECRETARY SPAW: Wentworth?
21 SEN. WENTWORTH: Here.
22 SECRETARY SPAW: West?
23 SEN. WEST: (Indicated presence)
24 SECRETARY SPAW: Whitmire?
25 SEN. WHITMIRE: (Indicated presence)

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1 SECRETARY SPAW: Williams?
2 SEN. WILLIAMS: (Indicated presence)
3 SECRETARY SPAW: Zaffirini?
4 SEN. ZAFFIRINI: (Indicated presence)
5 SEN. DUNCAN: The Chair present.
6 SECRETARY SPAW: Mr. President?
7 PRESIDENT DEWHURST: (Indicated
8 presence)

9 SEN. DUNCAN: A quorum is present.

10 **OPENING INSTRUCTIONS BY SEN. DUNCAN**

11 SEN. DUNCAN: Members, before we get
12 started, I wanted to kind of briefly discuss how we
13 will proceed here. And I think you all know the
14 resolution gives the Chair the power to allow time
15 limits. Many of you have wanted to bring and begin
16 with invited testimony, and those would be persons
17 with expertise that can help the body understand the
18 issues involved in the legislation that we are about
19 to consider, and that will be honored. Each side has
20 submitted a list of witnesses, and I assume the order
21 of those witnesses is available to us at this time.

22 After the author of the bill is
23 recognized to lay out the bill, then I will recognize
24 the proponents' first witness, their expert in support
25 of their bill. And then after that, we will go in

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1 alternating order so that then those who are in
2 opposition to the bill, if they want to bring witness
3 expert or invited witness in, then we would go in that
4 order.

5 So, in other words, we'll have one for
6 and one against, one for and one against as we go
7 through. There are several of those witnesses. I
8 believe there are eight witnesses that have been
9 identified by those in opposition to the bill, and
10 there are about seven that have been identified for
11 those in favor of the bill. So we will move that on.

12 The Chair will impose on each one of
13 those witnesses a 10-minute time limit. However, Sen.
14 Van de Putte indicates that they have one witness that
15 may take longer than that. And if you'll approach the
16 bench before, or the dais before that person comes on,
17 Sen. Van de Putte, we will adjust that time limit to
18 accommodate the concerns that you raised.

19 Members, I'm going to refrain from
20 recognizing any member to interrupt a witness during
21 their initial time limit. In other words, we will
22 allow the witnesses to complete their testimony, and
23 then you can ask questions after that. You will be
24 recognized in order of your pressing your call button
25 on your desk.

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1 And I will remind each and every one of
2 you, we have a number of guests who are here today, or
3 members of the public who wish to testify as well, and
4 they have been here since about 8 o'clock in the
5 morning and they would like to testify on this bill.
6 And so what we are trying to do is accommodate their
7 interest as well.

8 I know that you all have important
9 questions to ask of the invited witnesses, but I would
10 ask you to keep in mind that we have members of the
11 public who have also traveled here from other cities
12 and other areas of the state that would like to have
13 their voices heard today as well. So if we could
14 respect that as well.

15 Once we conclude with the invited
16 testimony, then we will start the process for public
17 testimony. The Chair intends to impose a three-
18 minute time limit on public testimony. As with
19 invited witnesses, the Chair will not entertain any
20 questions of the witness until they have completed
21 their three-minute testimony or concluded prior to the
22 three minutes.

23 As the persons have enrolled to testify,
24 the resolution requires -- and I think our rules have
25 always required -- that before a witness can testify,

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1 they sign an affirmation that is more or less an oath,
2 or is an oath before they testify. Persons who have
3 been filling out their cards have been doing that all
4 day long, and we have a procedure in there for them to
5 sign up to testify.

6 It's my understanding that the Secretary
7 of the Senate has done a nice job of preparing
8 instructions for them on how the process will work.
9 And they have been given written instructions on how
10 they will be called. It is the Chair's intention to
11 call the witnesses in the order in which they arrived
12 and registered to be witnesses today. Each one of
13 those cards was given a number, and those witnesses
14 will be called in order.

15 And there is always a problem with
16 witnesses who are not available at the time they're
17 called. We will have witnesses hopefully in the
18 gallery. The gallery is not full. So if you know
19 you're going to testify and your number is fairly
20 close, you should be in the gallery. We also have an
21 overflow room in the auditorium. Everybody has been
22 instructed as to that. It's the Chair's intention to
23 call witnesses in advance of their being on the floor,
24 and they are to report in the back hallway. And then
25 there is a process for security and a process for

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1 admitting them to the floor.

2 We will have them come through here and
3 give us testimony in an orderly fashion. And if
4 someone does not arrive at the time their name is
5 called or within 30 minutes of their name -- let me
6 repeat that and be clear. If a witness does not
7 arrive within 30 minutes of the time their name will
8 be called, then they will lose their opportunity to
9 testify. So we're going to try to be very flexible in
10 trying to allow people time to get here. But we need
11 to be able to stay on schedule and move -- and respect
12 every other witness' right to be heard.

13 Time limits are -- I think all of our
14 committees observe time limits. At least the ones
15 that I serve on do. And time limits are not designed
16 to limit the testimony that witnesses have to say;
17 it's designed to allow everyone who has presented to
18 testify, if possible. And so what I'm concerned
19 about, in putting a time limit in, is that people
20 understand that your time limit is based on the fact
21 that there are many people that want to testify, and
22 so we need to allow them to have their opportunity as
23 well.

24 Finally, we had a little discussion
25 about this in the discussion on the resolution when we

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1 were in session. The rules of decorum of the Senate
2 will be enforced. And that means for those in the
3 gallery, that we -- the rules of the Texas Senate do
4 not permit clapping or applause, when we're in a
5 deliberative session like this, do not permit
6 clapping, applause or demonstrations. There may be
7 times when you wish to be excited about something you
8 agree with or disagree with, but it is inappropriate
9 in the Senate chamber to express that. There will be
10 no placards or billboards or things dropped over the
11 rail. Any of that will subject the person doing it to
12 being expelled from the Senate gallery.

13 And I'm sure it won't come do this, but
14 if it comes to this, it comes to a point in time to
15 where, after warning, the gallery generally is not
16 observing the rules of the Senate with regard to
17 decorum, well, then, the Chair would entertain a
18 motion at that time or may, on sua sponte, request
19 that the gallery be cleared. The only reason I say
20 that is, is that the decorum and the ability to hear
21 witnesses and to deliberate in a professional way on
22 this is very important. And those rules were designed
23 to allow us to do that, and they will be enforced.

24 So those in the gallery and those
25 watching on TV, please understand that. I would hate

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1 to have to make a ruling or to have anyone removed
2 from the gallery, but we will need to do that if it
3 gets out of hand.

4 I need to clarify that the witnesses
5 should report to the front of the chambers. And I
6 always am confused about east, west, south, north or
7 front or back. But the front of the Senate chambers,
8 that would be the west doors next to the witness
9 registration desk, and that would be the door that's
10 closest to the rotunda in our Texas Senate.

11 Members, I want to introduce to you
12 today our court reporter, Aloma J. Kennedy of Kennedy
13 Reporting Service. She is an independent certified
14 shorthand court reporter, and she will be taking down
15 the testimony today. So it will be necessary for
16 either me or you to identify yourself in the record
17 whenever you speak or rise to testify or rise to ask a
18 question.

19 I'll probably just recognize you by
20 name, and the court reporter will get that. Because
21 the court reporter is a human being, we will need to
22 take a rest every now and then for her to rest her
23 fingers and arms, because she has a hard job.
24 Normally with a court reporter, every hour and a half
25 to two hours, and I'll let her kind of give me a

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1 signal whenever she is ready to take a five-minute
2 break.

3 Members, that's more or less the --
4 those are the issues and those are kind of the way
5 we're going to run things. So having explained that,
6 the Chair lays out Senate Bill 362 and recognizes
7 Sen. Fraser to explain the bill.

8 **OBJECTION TO FURTHER CONSIDERATION OF SB 362**

9 SEN. WEST: Mr. Chairman?

10 SEN. DUNCAN: Sen. West, for what
11 purpose?

12 SEN. WEST: Objection on further
13 consideration -- any consideration of Senate Bill 362
14 in that it violates Rule 11.18 and also would raise
15 Rule 11.10. Rule 11.18 is, "No bill may be reported
16 to the Senate before it has been the subject of an
17 open public hearing before a committee or
18 subcommittee."

19 My specific objection deals with the
20 notice. "Notice of the hearing on the bill must be
21 posted in a public place at lease 24 hours before the
22 hearing is to begin." The posting of notice on this
23 particular bill was at 6:22 p.m. on March the 9th;
24 therefore, any consideration before that would be in
25 violation of that rule.

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1 SEN. DUNCAN: Sen. West, bring your
2 point of order forward.

3 (Off the record: 12:55 p.m. to
4 12:58 p.m.)

5 SEN. WEST: Mr. Chairman?

6 SEN. DUNCAN: Sen. West, for what
7 purpose?

8 SEN. WEST: Mr. Chairman, for further
9 clarification on my point of order for further
10 consideration of this bill at this time, I would raise
11 Rule 13.04. 13.04 governs the procedure in a
12 committee of the whole: "The rules of the Senate, as
13 far as applicable, shall be observed in Committee of
14 the Whole Senate."

15 And then I would raise our Rule No.
16 11.18 as relates to the posting of the bill being at
17 least 24 hours before the hearing is to begin. And
18 specifically the notice of the hearing must be posted
19 in a public place.

20 And then also I would raise Rule 11.10
21 in terms of the, "No committee or subcommittee, except
22 a conference committee, shall meet at least without 24
23 hours public notice."

24 (Off the record: 12:58 p.m. to
25 1:14 p.m.)

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1 SEN. DUNCAN: Members, a point of order
2 has been raised. Rules 11.10 and 11.18 do not control
3 meetings of the Committee of the Whole and are
4 inapplicable. 13.01 reflects the Senate's manifest
5 right to resolve itself into committee of the whole at
6 any time after the morning call. The Senate has
7 resolved into the Committee of the Whole by Senate
8 resolution. The Chair may neither call a meeting of
9 the Committee of the Whole or schedule a bill for
10 hearing.

11 Article XI, standing and special
12 committees operate without direct day-to-day
13 supervision of the Senate. Standing and special
14 committees have the ability to meet, subject to the
15 call of the chair so long as the Senate is not
16 meeting.

17 Committee of the Whole presents the
18 obverse situation to standing and special committees.
19 The tag rule is intended to give each member 48-hour
20 written notice of the time and place of a public
21 hearing of standing and special committees. The rules
22 directly conflict with Rule 13.01 and the Senate's
23 right to resolve into the committee of the Whole at a
24 moment's notice if the Senate so desires. Every
25 member of the Senate is a member of the Committee of

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1 the Whole, having equal rights of notice and
2 participation.

3 Your point of order is respectfully
4 overruled.

5 SEN. WEST: Mr. Chairman?

6 SEN. DUNCAN: Sen. West, for what --

7 SEN. WEST: Parliamentary inquiry. So
8 that I can understand this, under Rule 13.04, it says
9 that, "The rules of the Senate, as far as applicable,
10 shall be observed in the Committee of the Whole . . ."
11 So by your very ruling, you're saying that the posting
12 notice to the public is a rule that the Committee of
13 the Whole does not have to abide by?

14 SEN. DUNCAN: Senator, that would
15 conflict with the ability in the rules of the Senate
16 to resolve into a committee of the whole at any time
17 it desires. So in its conflict, it would be
18 inapplicable.

19 SEN. WEST: So public notice does not
20 apply to the Committee of the Whole, even though we
21 are taking substantive testimony on this issue?

22 SEN. DUNCAN: Public notice laid out by
23 the rules that you have cited does not.

24 SEN. WEST: Okay. So for future
25 generations of legislators, specifically the Senate,

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1 posting notice does not apply to the Committee of the
2 Whole? That's essentially the ruling? Let me ask
3 this question: Once . . .

4 SEN. DUNCAN: Go ahead, Senator.

5 SEN. WEST: You have cited Rule 13.01
6 that talks about resolving. Is resolving synonymous
7 with hearing a bill?

8 SEN. DUNCAN: Senator, the Senate can
9 resolve for whatever purpose it desires.

10 SEN. WEST: Right. And the question is,
11 you cited in your ruling that 13.01 provides the basis
12 for your ruling. And as I understand it, resolving is
13 coming into the Committee of the Whole, hearing a bill
14 that's separate from resolving. It's a separate act
15 than just resolving.

16 SEN. DUNCAN: Well, Senator, we can
17 resolve for any purpose, and the purpose was to hear
18 the bill. Moreover -- and I will remind you that a
19 courtesy posting on the date, time and location of the
20 hearing was performed over a week ago, which is well
21 in advance of any public notice that would be required
22 of a standing committee. And so the only change that
23 you have referred to was a courtesy posting that was
24 done yesterday with regard to the change of time that
25 occurred whenever there was a motion to adjourn until

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1 10:00 instead of 9:00, and so we're talking about an
2 hour's difference here. So, again, I think that we
3 have resolved by resolution of the Senate to deal with
4 this. The Senate certainly was in session pursuant to
5 the constitution and the rules of the Senate.

6 SEN. WEST: Yes, sir, Mr. Chairman. But
7 the broader question, though, is one of resolving and
8 hearing the bills and whether or not public notice of
9 bills that are to be considered by the Committee of
10 the Whole are required by the Senate rules.

11 I mean, essentially you're saying that
12 the Committee of the Whole, by your ruling, that we
13 don't have to provide the public notice, there is
14 no -- we don't have to deal with transparency as
15 relates to considering bills in this committee, we can
16 just do it at our own whim, and that's inconsistent
17 with everything we've been doing in this body in terms
18 of transparency. If I'm wrong about it -- I just want
19 to make sure the record is clear.

20 And historically, Mr. Chairman, when we
21 have had bills in the Committee of the Whole, we have
22 provided notice to the public so that the public could
23 be here like they are now. And what I'm hearing today
24 is, is that that notice provision is not applicable
25 anymore as a result of the ruling of the Chair. I

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1 mean, correct me if I'm wrong.

2 SEN. DUNCAN: Senator, we are resolved
3 into a Committee of the Whole by the resolution we
4 adopted which laid out the bill that was to be
5 considered. As a result, we thought we were following
6 the rules by resolving into a Committee of the Whole
7 which would apply at any time we so desire; therefore,
8 the rules that you're citing to would conflict with
9 the ability of the Senate to freely resolve into a
10 Committee of the Whole to more informally discuss and
11 debate witnesses -- or the issues, including the
12 invitation of witnesses to come in and testify, as we
13 have done here.

14 SEN. WEST: Does it also conflict with
15 Rule 13.04?

16 SEN. DUNCAN: Senator, 13.04 provides
17 the -- it provides for the conflicts that may occur
18 with the concept of committee of the whole and other
19 rules, by saying that the rules of the Senate apply,
20 if applicable. And if they conflict -- where they
21 conflict, those rules wouldn't apply.

22 SEN. WEST: And this is my last
23 question. So you're saying that the notice provision,
24 the notice to the public concerning legislation at the
25 Committee of the Whole will take up conflicts, with

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1 the Committee of the Whole's right to resolve?

2 SEN. DUNCAN: Senator, the way the
3 Committee of the Whole operates and the design of that
4 from time immemorial would -- giving the Senate the
5 ability to resolve into itself as a Committee of the
6 Whole to informally debate an issue at any time it
7 desires would conflict with those posting rules.

8 SEN. WEST: Thank you, Mr. Chairman.

9 SEN. SHAPLEIGH: Mr. Chairman?

10 SEN. DUNCAN: Sen. Shapleigh, for what
11 purpose?

12 SEN. SHAPLEIGH: During the Senate
13 portion of this, before we got into committee, we had
14 a discussion there about some housekeeping matters
15 that I think we need to make very clear for this
16 record. This portion is being kept for the official
17 record by a stenographer hired by the Senate. Is that
18 correct?

19 SEN. DUNCAN: That's correct.

20 SEN. SHAPLEIGH: And for the purposes of
21 the official record, should it be transmitted to any
22 third party, we have agreed that the stenographer's
23 record may be utilized?

24 SEN. DUNCAN: I'm not sure I understand
25 your question. Would you repeat it?

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1 SEN. SHAPLEIGH: If we have to establish
2 the official proceedings of what's happened here today
3 for, for example, the Department of Justice in
4 Washington, D.C., the record that is being made by the
5 stenographer whose equipment is there and who sits in
6 Patsy Spaw's office can be used to establish that
7 record?

8 SEN. DUNCAN: Senator, it's my
9 understanding that this will be a record that can be
10 used to establish the record of the testimony that is
11 given to the Senate, and the debate.

12 SEN. SHAPLEIGH: Now, for the purposes
13 of making sure that we have the record to send, I
14 would like to talk a little bit about the procedure
15 for the Secretary of the Senate to take documents and
16 keep them to append to the record. We've had
17 discussions already about several documents, the
18 letters to and from Sen. Van de Putte and yourself,
19 the letter to AG Abbott, the notice of the posting
20 that Sen. West was talking about, and this green Texas
21 Senate agenda. Am I to understand that if we want
22 these made a part of the record, we can deposit them
23 with the Secretary of the Senate?

24 SEN. DUNCAN: I would suggest that you
25 do that, but I would also suggest that you identify

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1 and just move to put them into the record so that you
2 have a clear marker of where they are and at what time
3 they came in so that whoever is reading the record
4 will have an opportunity to relate the documents to
5 the testimony.

6 SEN. SHAPLEIGH: Well, at this time I
7 would like to, with your permission, mark and deliver
8 to her Exhibits 1A and B, Sen. Van de Putte's letter
9 to you and your response to her; as Exhibit 2, her
10 letter to AG Abbott; as Exhibit 3, the notice of the
11 posting time that Sen. West has talked about; as
12 Exhibit 4, the Senate agenda that was distributed
13 today; and Exhibit 5, the signed tag that brought this
14 point of order to the Chair.

15 SEN. DUNCAN: Your evidence is received.
16 (Exhibit Nos. 1 through 5 marked and
17 admitted)

18 SEN. DUNCAN: And it may be that what we
19 would do is just keep a numerical order of those
20 exhibits when they come in. But I put the challenge
21 on you to make sure that you get them marked and
22 submitted to the Secretary so they get into the record
23 appropriately.

24 SEN. SHAPLEIGH: Thank you.

25 SEN. DUNCAN: Sen. Gallegos, for what

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1 purpose?

2 SEN. GALLEGOS: Parliamentary inquiry.

3 Mr. Chairman, in lieu -- on the ruling on

4 Sen. West's -- what he asked for, I want to appeal the
5 ruling of the Chair on this issue.

6 SEN. WILLIAMS: Mr. President?

7 SEN. DUNCAN: Sen. Williams of Harris --
8 or Montgomery, rather.

9 SEN. WILLIAMS: I would move to table
10 the motion that Sen. Gallegos just made.

11 SEN. DUNCAN: Sen. Williams,
12 Sen. Gallegos.

13 (Off-the-record discussion at the bench)

14 SEN. WILLIAMS: Mr. Chairman -- or
15 Mr. President -- or Mr. Chairman, I guess I should
16 say.

17 SEN. DUNCAN: Sen. Williams.

18 SEN. WILLIAMS: Mr. Chairman, I
19 respectfully will withdraw my motion to table. As I
20 understand, it's not appropriate to have a motion to
21 table an appeal to the ruling of the chair in
22 committee. However, I also believe that the rules
23 provide that that motion would be in order were we on
24 the floor. So it's my mistake. I withdraw my motion.

25 SEN. DUNCAN: Sen. Williams withdraws

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1 his motion to table. Sen. Gallegos sends up an appeal
2 to the ruling of the Chair.

3 Sen. West, for what purpose?

4 SEN. WEST: Out of all due respect,
5 Mr. Chairman, I'm trying to figure out what rules
6 apply and what rules don't. And if we could just get
7 some idea of what Senate rules are going to apply and
8 then, you know, all of us will know exactly what the
9 rules are.

10 So I just need to know what rules apply.
11 I thought the Senate rules applied. But again,
12 there's some wiggle room in there, and I just want to
13 know how to proceed. As an example, the Attorney
14 General -- well, I'll come back to that. But again, I
15 just need to know what rules apply as it relates to --
16 you know, we can do anything we want to do, we can
17 resolve and pretty much do what we want to do. I'm
18 trying to figure out why his motion wouldn't be
19 honored.

20 SEN. DUNCAN: Senator, currently we are
21 in the motion of -- Sen. Gallegos has a motion to
22 appeal before the body. You have a parliamentary
23 inquiry. Why don't we handle that as those issues
24 come up. Let's go ahead and deal with the appeal of
25 the ruling of the Chair that has been raised by

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1 Sen. Gallegos.

2 Sen. Gallegos, you're recognized to
3 speak on that.

4 (Brief pause)

5 SEN. WENTWORTH: Sen. Gallegos, you're
6 recognized to argue in favor of your motion.

7 SEN. GALLEGOS: Mr. Chairman, the reason
8 for my appeal is that evidently the rules are unclear
9 on what rules that we're going by on major
10 legislation, I think and I believe that the Senate
11 rule should be applicable to major legislation, such
12 as the bill that is trying to be laid out before us,
13 that any major piece of legislation under the Senate
14 rules, the ones that Sen. Royce West said. And I've
15 got another tag on similar rules, that I believe that
16 the Senate rules are applicable to major legislation
17 that's heard on this floor, whether it be Committee of
18 the Whole or regular Senate committee hearings.

19 And that is why, you know, until we find
20 out what rules that we're working on, I believe that
21 the rules of the Senate should be applicable to this
22 bill here, and that's why I'm appealing the ruling of
23 the Chair.

24 SEN. WENTWORTH: Okay. Members, a
25 motion -- I'm sorry. The Chair recognizes Sen.

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1 Williams.

2 SEN. WILLIAMS: Mr. Chairman, I would
3 like to speak on Sen. Gallegos' motion that's before
4 us.

5 SEN. WENTWORTH: You're recognized.

6 SEN. WILLIAMS: Thank you.

7 Respectfully, Sen. Gallegos, I would
8 encourage you to read the rules that we have on the
9 Committee of the Whole. And before I made this rule
10 change at the beginning of the session, I very
11 carefully looked at the rules of the Committee of the
12 Whole. And we also considered how that has worked,
13 because I wasn't familiar with it, quite frankly.

14 And it's clear to me, after reading this
15 and other documents that relate to parliamentary law,
16 that a ruling other than what the Chair has made would
17 put the body in conflict with itself. The purpose of
18 the Committee of the Whole is to allow the body to
19 dissolve into that committee and consider important
20 matters before the entire body.

21 And to require that the posting rule
22 apply before we could do that would be to restrict the
23 body's inherent ability to dissolve into the Committee
24 of the Whole. And so the standing committee rules, as
25 I understand it, don't apply universally to this

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1 proceeding that we're in.

2 And I think it would be a grave mistake
3 for this body to try to impose upon ourselves a
4 posting rule so that if there's some important matter
5 that we need to consider in an informal basis like a
6 committee hearing, is not as we hear it on the floor,
7 it would unnecessarily restrict our ability to do so.

8 And there are many examples in our
9 history as a Senate where we have resolved into the
10 body of the whole and considered bills and legislation
11 without posting those things. So respectfully I just
12 wanted to point that out to the body, Mr. Chairman.

13 SEN. WEST: Will Sen. Williams yield?

14 SEN. WILLIAMS: I yield.

15 SEN. WENTWORTH: Sen. West, for what
16 purpose?

17 SEN. WEST: Question of Sen. Williams.

18 SEN. WENTWORTH: Do you yield to Sen.
19 West?

20 SEN. WILLIAMS: I yield.

21 SEN. WENTWORTH: He yields.

22 SEN. WEST: Sen. Williams, I recognize
23 that oftentimes we resolve and we don't post to take
24 up -- we resolve into the Committee of the Whole to
25 take up issues. But in this instance, we decided to

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1 post, follow the Senate rules and post. And then we
2 decided to repost. And now we're hearing that posting
3 is not applicable to the Committee of the Whole. And
4 that's why I'm taking so much time on this, given the
5 issues of transparency that the public demands and I
6 know that you support.

7 The issue in my mind is, is that once we
8 set up and make this ruling, we're now telling the
9 public, we're now telling the State of Texas that this
10 committee can take up legislation without giving the
11 public notice. That's what we're saying.

12 SEN. WILLIAMS: Well, Sen. West,
13 respectfully, I think you turn the intent of the
14 posting rule on its head with your logic. And if the
15 purpose of the posting rule is so that the public can
16 have adequate notice, there is no argument that can be
17 made. This has been widely disseminated over the
18 Internet, in the popular media.

19 And, in fact, the posting here was
20 merely a courtesy. The purpose of the posting rule is
21 not primarily to notify the public. The primary
22 purpose of the posting rule is to make sure that the
23 other members of the body know what's going on when
24 you have a standing committee that comes together and
25 it's subject to the call of the chair.

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1 It is an important secondary thing that
2 we also give notice to the public. But I don't think
3 you can reasonably argue that the public wasn't aware
4 of what proceedings were going to be taking place. We
5 have over 100 witnesses that have testified. And
6 surely you don't think, because it wasn't posted in
7 the back hall, that somebody didn't show up for this
8 meeting.

9 SEN. WEST: Sen. Williams, I understand
10 your logic. And, frankly, I'm kind of baffled by it.
11 The reality is, is that the decision that y'all are
12 going to make today is that the posting notice does
13 not apply to the Committee of the Whole. That's this
14 argument. And the reality is, is that when you decide
15 to post, there is a certain amount of things that we
16 have to do according to our rules. There are certain
17 rights and privileges and all of that that are tied to
18 that posting. When you repost, it resets the clock;
19 it resets the clock.

20 Here is the way I look at it: The
21 reality is this -- and you and I had this debate, you
22 and I had this debate when we were going through the
23 rules change -- you guys -- the majority of the body
24 decided to change the rules. Okay. And you have the
25 votes, you have the gavel, you change the rules. And

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1 that's fine. I can deal with that. But those are the
2 rules.

3 I'm just saying, let's make certain
4 that, given the rules that we now have, that all of us
5 can apply those rules to this situation. And when we
6 sit up and say that the Senate of the whole -- the
7 Senate can resolve itself into the whole committee and
8 these rules, posting is not applicable, I think we
9 need to think about it.

10 I understand that we're dealing with
11 issues, you know, voting issues that was always
12 something that was very divisive in this body. But
13 what I'm saying to you, as my desk mate and as a
14 colleague, we're got to really think about the
15 decision that we're making today saying that when we
16 take up these types of issues, that posting should not
17 be applicable.

18 SEN. WILLIAMS: Sen. West, I appreciate
19 the courtesy that you've shown me in explaining your
20 side of this. And what I would politely try to point
21 out to you is that I don't believe that we are today
22 deciding that the posting rule doesn't apply to the
23 Committee of the Whole. That has been decided a long
24 time ago.

25 SEN. WEST: When was it decided?

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1 SEN. WILLIAMS: That is a part of the
2 body of parliamentary law that exists already. And it
3 is in the spirit of what's in the rules that relate to
4 the Committee of the Whole and the purpose. So, yes,
5 we're reaffirming that that doesn't apply today. And
6 the mere act of giving public notice does not then
7 subject you to a rule that didn't apply before. And I
8 think that's the ruling that the Chair has made, and I
9 think correctly so.

10 Thank you, Sen. West.

11 SEN. WEST: Look forward to the vote.

12 SEN. WENTWORTH: The Chair recognizes
13 Sen. Lucio of Cameron County.

14 SEN. LUCIO: Will Sen. Williams please
15 yield for a question?

16 SEN. WENTWORTH: Sen. Williams, you
17 yield?

18 SEN. WILLIAMS: I yield.

19 SEN. WENTWORTH: Sen. Williams yields.

20 SEN. LUCIO: Thank you, Sen. Williams.

21 I think all of us will agree that rules
22 are important to this process and if we're not to
23 follow them, then as a point of clarification, maybe
24 you could tell me what other rules do not apply to
25 this extraordinary piece of legislation?

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1 SEN. WILLIAMS: Well, Sen. Lucio, it
2 wouldn't be appropriate for me -- I'm not presiding
3 over this -- it wouldn't be appropriate for me to
4 presume the role of the chair of this Committee of the
5 Whole. I think it's up to his discretion on that.
6 And I think that my -- I'll leave it to -- rather than
7 say "to his discretion," I think I'll leave that to
8 the Chair to make those rulings as the issues come
9 forward.

10 My response was really centered at --
11 since the issues that Sen. Gallegos raised when he
12 explained his appeal to the ruling of the Chair. And
13 I would reiterate again that it's not my belief that
14 all of the standing committee rules apply to the
15 Committee of the Whole, that we should not restrict
16 ourselves on the ability to resolve into the body of
17 the whole. It is designed for the Senate to be able
18 to rapidly take up an issue with everyone involved.
19 It is a unique situation, much different than a
20 standing committee is.

21 And so there is a long history, as I
22 said, of this body resolving into the Committee of the
23 Whole to consider matters, resolutions and legislation
24 where no posting was done whatsoever. And to say that
25 the mere act of giving public notice then subjects you

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1 to that rule is to turn the Senate rules on their
2 head, in my opinion.

3 SEN. LUCIO: Well, but, you know, they
4 shouldn't have been posted, then if that would have
5 been the case, in my opinion, as well. You're a very
6 good student of the rules, and that's why I asked this
7 question. I think we need to revisit the rules, and
8 we need to rewrite the rules so it can be very clear
9 and not have to waste the public's time next time we
10 have a proceeding as such.

11 SEN. WILLIAMS: Thank you, Sen. Lucio.

12 SEN. WENTWORTH: Sen. Van de Putte.

13 SEN. VAN de PUTTE: Thank you,
14 Mr. President. I would like to speak -- appeal -- and
15 not maybe particularly at Sen. Williams, but he brings
16 up some very interesting comments. According to our
17 Senate rules on 13.04, "The rules of the Senate, as
18 far as applicable, shall be observed in the Committee
19 of the Whole Senate."

20 So as far as applicable. And although
21 this question on this appeal is about posting, we
22 don't post when we go into Committee of the Whole.
23 And probably, as Sen. Williams has said, because we
24 don't know when we're going into the Committee of the
25 Whole. We don't know when we're going to go back into

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1 the Committee of the Whole and resolve to talk about
2 the Easter vacation schedule and whether we should be
3 off on Holy Thursday and Good Friday. And although
4 that is important, it is about the logistics and the
5 work schedule.

6 This is very different. When the rules
7 of the Senate were changed on the first week of the
8 session, it was done so to circumvent our normal
9 two-thirds rule on one particular issue, voter ID.
10 And because there is a bill -- this is a legislative
11 bill -- it is not the Senate resolving to talk about a
12 holiday schedule; it is not the Senate that is
13 resolving to talk about should we go and attend
14 someone on the Senate, their parent's funeral and the
15 logistics for that; it is not the Senate resolving to
16 plan the retirement party for our former secretary of
17 the Senate, Betty King.

18 Those are the things that we do because
19 it is the business of the Senate. This is the
20 business of the people. And we are going to add
21 another barrier to the basic right to vote; and, yet,
22 by the ruling, we are going to say the people have no
23 business knowing that we're going to take up a
24 legislative bill.

25 And so maybe for the purposes of this

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1 appeal -- this is special. You made it special. You
2 said this was more important than anything else. And
3 so we are taking up -- and maybe the posting is not --
4 Sen. Williams, I vehemently disagree with you. The
5 posting is not for our convenience. We're here; we
6 have staff. We know when we're going to meet. It is
7 for the public. It is because we are going to add
8 barriers to their basic right to vote, but they ought
9 to have the posting if the Senate is going resolve
10 into the Committee of the Whole to change the way and
11 the possess that they vote. It is their business.

12 And so this is very different from the
13 Committee of the Whole resolving to discuss a work
14 schedule or to plan a party or to make funeral
15 arrangements. This is the people's business. And I
16 would ask you to think on this appeal. What we are
17 saying is that when there is legislation before the
18 Committee of the Whole, that we don't have to give
19 notice.

20 Although notice was given -- and it is
21 very much appreciative -- to have this ruling set in
22 our Senate rules for the senators that may not even be
23 born yet, is a terrible precedent. It shuts the
24 public out. So because of the special order and
25 because we're meeting in the Committee of the Whole

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1 for one bill that was deemed so important that it
2 couldn't go by regular Senate rules, didn't go to the
3 Committee of Jurisdiction, we changed that.

4 But we ought to at least afford the
5 public the opportunity to know, in future generations
6 when they're about to be asked, to change how they
7 vote and what processes are used. And so when I ask
8 you to think about the appeal, don't think about us,
9 think about all the wonderful Texans here who always
10 exercise their right to vote.

11 SEN. WENTWORTH: The Chair recognizes
12 Sen. Williams.

13 SEN. WILLIAMS: Thank you.

14 Well, Sen. Van de Putte, respectfully, I
15 would say they're here. People from both sides of the
16 issue are here. And I think the effect of Sen.
17 Gallegos's appeal would be to send them home so that
18 they couldn't participate in this process today.

19 SEN. WENTWORTH: Members, Sen. Gallegos
20 has appealed the ruling of the Chair. The Secretary
21 will call the roll. A vote of "Aye" --

22 SEN. GALLEGOS: Mr. Chairman?

23 SEN. WENTWORTH: Sen. Gallegos.

24 SEN. GALLEGOS: May I -- I want to reply
25 to Sen. Williams, if I may.

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1 SEN. WENTWORTH: The Chair recognizes
2 Sen. Gallegos.

3 SEN. GALLEGOS: Sen. Williams, you know,
4 I respect your remarks. And let me just say what my
5 colleagues have already told you in their remarks.
6 You said it's a unique situation. It is. And you
7 said that there was Internet postings, the media that
8 has posted so, you know, everybody is supposed to
9 know.

10 Well, I beg to differ with you. This is
11 an issue that is unique because you made it unique
12 when we passed that resolution that completely did
13 away with the two-thirds rule. So when you said it's
14 a unique situation, it is, because only -- and only on
15 this issue do we do away with the two-thirds rule that
16 has always been a tradition of the Texas Senate.

17 And let me remind you, Senator, that we
18 got elected here, everybody on this floor, to notify
19 and at least let our constituents know what's going on
20 here. And I will be the last one to say to them that
21 I'm going to depend on Internet postings and the media
22 to post, you know, this unique bill that you have made
23 unique by the resolutions that we passed earlier this
24 session and doing away with the two-thirds rule on
25 this issue.

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1 So I would really tell you,
2 Sen. Williams, that the only really way to tell the
3 people that elected you and me about this unique
4 situation that we have on this floor today is by
5 public posting, something that we were elected to do,
6 to tell them -- not the Internet, not the media or
7 anybody else, or the grapevine or whatever else you
8 want to call it.

9 It's a public posting; that's what it
10 is. And I will refer in my appeal to the rules that
11 Sen. Van de Putte did, 13.04. And it says, "The rules
12 of the Senate, as far as applicable, shall be observed
13 in Committee of the Whole Senate." And also on Rule
14 20.02, it says, "The President's ruling is subject to
15 appeal to the entire Senate."

16 And that's what I'm doing right now,
17 Mr. Chairman and Sen. Williams. With all due respect,
18 I do appeal the ruling of the Chair.

19 SEN. WENTWORTH: All right. Members,
20 Sen. Gallegos has appealed the ruling of the Chair. A
21 vote of "aye" will sustain the Chair; a vote of "nay"
22 will overturn the Chair.

23 The Secretary will call the roll.
24
25

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1 ROLL CALL NO. 2

2 SECRETARY SPAW: Averitt?

3 SEN. AVERITT: I confirm.

4 SECRETARY SPAW: Carona?

5 SEN. CARONA: (Indicated "aye" vote)

6 SECRETARY SPAW: Davis?

7 SEN. DAVIS: Nay.

8 SECRETARY SPAW: Deuell?

9 SEN. DEUELL: (Indicated "aye" vote)

10 SECRETARY SPAW: Duncan?

11 SEN. DUNCAN: (Present, not voting)

12 SECRETARY SPAW: Ellis?

13 SEN. ELLIS: (Indicated "nay" vote)

14 SECRETARY SPAW: Eltife?

15 SEN. ELTIFE: (Indicated "aye" vote)

16 SECRETARY SPAW: Estes?

17 SEN. ESTES: (Indicated "aye" vote)

18 SECRETARY SPAW: Fraser?

19 SEN. FRASER: Aye.

20 SECRETARY SPAW: Gallegos?

21 SEN. GALLEGOS: (Indicated "nay" vote)

22 SECRETARY SPAW: Harris?

23 SEN. HARRIS: (Indicated "aye" vote)

24 SECRETARY SPAW: Hegar?

25 SEN. HEGAR: (Indicated "aye" vote)

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1 SECRETARY SPAW: Hinojosa?
2 SEN. HINOJOSA: (Indicated "nay" vote)
3 SECRETARY SPAW: Huffman?
4 SEN. HUFFMAN: (Indicated "aye" vote)
5 SECRETARY SPAW: Jackson?
6 SEN. JACKSON: (Indicated "aye" vote)
7 SECRETARY SPAW: Lucio?
8 SEN. LUCIO: (Indicated "nay" vote)
9 SECRETARY SPAW: Nelson?
10 SEN. NELSON: (Indicated "aye" vote)
11 SECRETARY SPAW: Nichols?
12 SEN. NICHOLS: (Indicated "aye" vote)
13 SECRETARY SPAW: Ogden?
14 SEN. OGDEN: (Indicated "aye" vote)
15 SECRETARY SPAW: Patrick?
16 SEN. PATRICK: (Indicated "aye" vote)
17 SECRETARY SPAW: Seliger?
18 SEN. SELIGER: (Indicated "aye" vote)
19 SECRETARY SPAW: Shapiro?
20 SEN. SHAPIRO: (Indicated "aye" vote)
21 SECRETARY SPAW: Shapleigh?
22 SEN. SHAPLEIGH: (Indicated "nay" vote)
23 SECRETARY SPAW: Uresti?
24 SEN. URESTI: (Indicated "nay" vote)
25 SECRETARY SPAW: Van de Putte?

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1 SEN. VAN de PUTTE: (Indicated "nay"
2 vote)
3 SECRETARY SPAW: Watson?
4 SEN. WATSON: (Indicated "nay" vote)
5 SECRETARY SPAW: Wentworth?
6 SEN. WENTWORTH: (Indicated "aye" vote)
7 SECRETARY SPAW: West?
8 SEN. WEST: (Indicated "nay" vote)
9 SECRETARY SPAW: Whitmire?
10 SEN. WHITMIRE: No.
11 SECRETARY SPAW: Williams?
12 SEN. WILLIAMS: (Indicated "aye" vote)
13 SECRETARY SPAW: Zaffirini?
14 SEN. ZAFFIRINI: (Indicated "nay" vote)
15 SECRETARY SPAW: Mr. President?
16 PRESIDENT DEWHURST: (Indicated "aye"
17 vote)
18 SEN. WENTWORTH: There being 19 ayes, 12
19 nays and one present, not voting, the ruling of the
20 Chair is sustained.
21 SEN. SHAPLEIGH: Mr. Chair?
22 SEN. DUNCAN: Sen. Shapleigh?
23 SEN. SHAPLEIGH: Welcome back.
24 SEN. DUNCAN: Thank you.
25 SEN. SHAPLEIGH: Can we make that vote,

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1 since we don't have electronically recorded votes, an
2 Exhibit 6?

3 SEN. DUNCAN: Yes, Senator. I think all
4 votes should be made part of the record, and they are
5 part of the record.

6 Sen. Fraser. The Chair recognizes
7 Sen. Fraser to lay out Senate Bill 362.

8 SEN. GALLEGOS: Mr. President?

9 SEN. DUNCAN: Sen. Gallegos, for what
10 purpose?

11 SEN. GALLEGOS: Mr. Chairman, I want to
12 tag this Senate Bill on Ruling 11.19 on 48-hour notice
13 to all Senate members, and I believe that's 11.19.

14 SEN. DUNCAN: Senator, bring your point
15 of order forward.

16 SEN. GALLEGOS: My tag is already up
17 there.

18 (Brief pause)

19 SEN. GALLEGOS: Mr. President, I would
20 move to tag the bill and request a 48-hour notice to
21 all Senate members pursuant to Rule 11.19.

22 SEN. DUNCAN: Senator, are you rising on
23 a point of order?

24 SEN. GALLEGOS: I'm tagging the bill.

25 SEN. DUNCAN: Let me rephrase the

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1 question. I think you would have to raise a point of
2 order on further consideration of the bill, based on
3 the tag.

4 SEN. GALLEGOS: Well, I raise the point
5 of order to disallow any further consideration of
6 Senate Bill 362.

7 SEN. DUNCAN: Okay.

8 SEN. GALLEGOS: And I have done that in
9 reference by submitting a tag to the Secretary of the
10 Senate.

11 SEN. DUNCAN: Thank you, Sen. Gallegos.

12 For the reasons previously stated in the
13 prior point of order raised by Sen. West, your point
14 of order is respectfully overruled.

15 SEN. GALLEGOS: Thank you,
16 Mr. President.

17 SEN. DUNCAN: Thank you, Senator.

18 SEN. WEST: To make sure the record is
19 clear --

20 SEN. DUNCAN: Sen. West.

21 SEN. WEST: Parliamentary inquiry.
22 Sen. Gallegos, as well as some other members of the
23 Senate, filed a motion to tag for further
24 consideration of Senate Bill 362. Your ruling would
25 be the same as it relates to that motion, to tag also?

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1 There were two motions to tag filed.

2 SEN. DUNCAN: Senator, the
3 interpretation and the basis for the overruling of
4 Sen. Gallegos' motion and your motion and a motion
5 with regard to the tag rule would be that the rules do
6 not apply -- are not applicable, and I've made that
7 ruling. And that would be -- the ruling would be
8 consistent with the earlier ruling I made on your
9 motion.

10 SEN. WEST: Okay. And I just wanted to
11 make certain that we're basically dealing with all the
12 tagged motions that were up there. So tagged rules
13 don't apply to a committee whole either when we're
14 taking up substantive legislation? And that's, in
15 essence, the ruling?

16 SEN. DUNCAN: Senator, for the reasons
17 that we explained earlier and I think for the reasons
18 that were abated by the Senate and prevailed in the
19 appeal, that the tag would not apply, the tag rule
20 would not apply to the Committee of the Whole.

21 SEN. WEST: Thank you.

22 SEN. DUNCAN: Sen. Fraser, you are once
23 again recognized. You have the floor with regard to
24 laying out Senate Bill 362.

25

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LAYING OUT OF SENATE BILL 362

SEN. FRASER: Thank you, members. The three-minute rule is in effect.

I've been sitting here for four hours waiting to lay this out. And, actually, we have a lot of discussion about how I should lay this out, discussion on it. And I think the bill speaks for itself. And I am going to be very brief, probably three or four minutes, and allow the witnesses to move forward, because I think we've wasted enough of the public's time and that we should move forward with hearing from the witnesses.

Members, this bill, I think probably most of you are going to be very familiar with it. It's something we've talked about a lot. Someone back a while ago when we were having lunch asked me the question, said, "How did the talk about this bill get started"?

And I actually came back and sat down, and I've got probably, interestingly, more research and more reading and debate on this bill maybe than one I've ever done, because I'm very interested in the concept. But I think probably if you track it back in our nation's history, is that we look at the ongoing threat of voter fraud that this country has addressed

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1 really since the start, it goes all the way back.

2 And we've got many places where we look.
3 One of them would be Tammany Hall, possibly the Kansas
4 City Pendergast machine. Here in Texas, we probably
5 should look no further to the 1948 Senate race when
6 the Duke of Duval delivered 201 of the 203 registered
7 voters in Box 13 in Jim Wells County in the race
8 between LBJ and Coke Stevenson. Maybe we refer back
9 to Mayor Richard Daley's Chicago machine in the 1960
10 presidential election where it was alleged that at
11 least one in every 10 votes potentially was a
12 fraudulent or illegal vote, and including multiple
13 votes by the dead that continues throughout our Texas
14 history, even looking at the activity over the
15 indictments and the convictions over the last several
16 years, clarifying that voter fraud not only is alive
17 and well in the United States, it's very alive and
18 well in Texas.

19 And I think that brings us forward to
20 why we're here today. I believe the danger of the
21 voter fraud has threatened the integrity of the entire
22 electoral process for the entire history of the United
23 States.

24 In 2005, I think a lot of you are
25 familiar with the fact that the Federal Election

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1 Commission asked a bipartisan commission, and they
2 went out and they tried to get someone to head that up
3 from what I'll call the left, the former President of
4 the United States, Jimmy Carter, a Democrat president
5 that had been the governor of a state, Georgia, that
6 was a Section 5 Voter Rights Act state. They asked
7 him to be one of the co-chairs of a bipartisan
8 commission. Secretary of State James Baker was the
9 other side. That Commission was put in place to look
10 at voter fraud in the United States and come back with
11 a recommendation of how we address that.

12 That commission in, you know, their
13 reaffirming the danger said, "The elections are at the
14 heart of democracy. Americans are losing confidence
15 in the fairness of elections. And while we do not
16 have a crisis today, we need to address the problems
17 of our electoral system."

18 During that same time, the Supreme Court
19 made a ruling in Purcell and Gonzalez stating the
20 "Confidence in the integrity of our electoral
21 processes is essential to the functioning of our
22 participatory democracy. Voter fraud drives honest
23 citizens out of the democratic process and breeds
24 distrust of our government. Voters who fear" -- and I
25 emphasize the word "fear" -- "Voters who fear their

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1 legitimate votes will be outweighed by fraudulent ones
2 will feel disenfranchised. '[T]he right of suffrage
3 can be denied by a debasement or dilution of the
4 weight of a citizen's vote just as effectively as by
5 wholly prohibiting the free exercise of the
6 franchise.'"

7 It hit very close to home in 2003 when
8 we had a member of our body that I served with. My
9 chairman when I was in the House of Representatives,
10 Steve Wolens, a Democratic House of Representative
11 member and a chairman from the Dallas area, in 2003,
12 he laid out a bill and made a passionate plea to the
13 Legislature because he believed that through voter
14 fraud, that there had been an effort not only for him
15 but also his wife that was the mayor of Dallas.

16 And he says in the bill that he laid out
17 in his appeal, "Rigged elections in Dallas with people
18 harvesting votes have destroyed our" -- he said, "The
19 ability to cast a vote and have our vote counted is
20 the bedrock of our democracy. We must do everything
21 possible to ensure the sanctity of the vote in our
22 state. And as a society, we must not tolerate the
23 disenfranchisement of our citizens any longer in
24 accusing a group in a Democratic primary of rigging
25 the election and harvesting votes."

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1 That same Baker Commission, the Carter-
2 Baker Commission, in an editorial that President
3 Carter and Baker co-wrote, said, "At the end of the
4 day, there is considerable national evidence of
5 in-person voter fraud. And regardless of whether one
6 believed that voter impersonation is widespread or
7 relatively rare, there can be no serious dispute that
8 it is a real effect that can be substantial, because
9 in a close election, even a small amount of fraud
10 could make the margin of difference."

11 In 2005 that bipartisan commission that
12 was created by the election reform, recommended that a
13 fair, a free and fair election requires both ballot
14 security and access to voting. "We as a commission
15 have offered to bridge" or "a proposal to bridge the
16 partisan divide by suggesting a uniform voter ID."

17 That recommendation came from a former
18 President of the United States, had been put on a
19 commission by the Federal Election Commission. The
20 recommendation came because of a concern about voter
21 fraud. And he recommended in 2005 that we develop a
22 program for a uniform voter photo ID. The bill that I
23 lay out today is in response to that.

24 Senate Bill 362 is really pretty
25 straightforward. It's nothing more than when I walk

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1 in to vote and I lay out my voter registration, that
2 that person across from me can recognize that I am who
3 I represent to be, that I am that person on the roll.
4 And I feel I have an obligation to represent that I am
5 a legal living person that has the right to vote and I
6 am that person on that roll.

7 Under Texas law today, we do not have
8 that ability. We're going to have witnesses come
9 forward today, and they're going to tell you about
10 cases. I have questions that I'm going to ask, and
11 one of the ones is going to be to the Secretary of
12 State. We're going to ask about if, when we go into a
13 voting booth, if someone could impersonate me and
14 steal my vote and what they could do about it.

15 And I think a lot of you are going to be
16 shocked at what our current law in Texas is today.
17 Without a doubt, there is the ability in Texas from a
18 lot of different directions or a different way for
19 someone to steal your identity, your right by your
20 voter registration and can vote, identify themselves
21 as you.

22 The Baker Commission -- and I'm sorry.
23 Let me back up a second and say one of the other
24 things that you're going to hear today is that we have
25 representatives from Indiana and Georgia. After the

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1 Baker Commission recommended that the photo ID be
2 implemented, one of the first states to do a strict
3 photo ID was the State of Indiana. Theirs is very
4 straightforward. It says that the citizens, when they
5 vote, will show a photo ID. If someone doesn't have a
6 photo ID, the state will pay for it.

7 That law that was put in place actually
8 was in place during the 2006 election, and then again
9 in the 2008 election. It has withstood the challenges
10 through the court system. And this last year, the
11 U.S. Supreme Court confirmed a decision on the Indiana
12 bill in a majority opinion that was giver by John Paul
13 Stevens, which is generally considered a moderate to
14 left-leaning justice. He issued the majority opinion,
15 and the opinion was six to three confirming the voter
16 ID bill for Indiana.

17 Since then, there have been two election
18 cycles. I'm not going to go into the results of that,
19 because we have someone from Indiana that is going to
20 testify to that. But I think it's going to clearly
21 show that instead of somehow discouraging someone to
22 vote, it did just the opposite, that the vote total --
23 in fact, I'm going to go ahead you give you those,
24 because I think they're very important.

25 In Indiana over the last two election

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1 cycles, Indiana had the fifth largest increase of
2 voter increase in the United States in the 2008
3 election. In the Democratic votes that were cast,
4 they were No. 1 in the nation. They were the largest
5 increase of Democrat votes in the nation, even though
6 next door in Illinois, where the presidential
7 candidate was from, had no photo ID registration.
8 Indiana had a strict photo ID registration. Indiana
9 doubled the increase of Illinois. It clearly showed
10 that there was not a suppression there.

11 Georgia, a Section 5 voter rights state,
12 they also implemented a strict voter photo ID bill.
13 This last election cycle, Georgia was the largest
14 increase in vote totals in the nation. Of all the
15 states, of the other states that did not have it,
16 Georgia, after they implemented their photo ID
17 legislation, had the largest increase in vote totals
18 in the nation. And we have people from Georgia here.

19 I think probably a brief description of
20 my bill, and we'll get into that. And if someone has
21 questions about 362 and what my bill does, but it's
22 really pretty straightforward. It just says that when
23 someone goes in to vote, they have not only the choice
24 of showing their photo ID, driver's license, but we're
25 also giving them secondary choices, and those

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1 secondary choices are a lot of secondary choices.

2 They could show their library card.

3 They could show any government piece of mail that was
4 mailed to them. Basically anything that would show
5 their identification as a secondary source of
6 identification is going to be allowed under my bill.
7 And when we start discussing that, I'll be glad to go
8 over the list that is listed of things. But in Texas,
9 the bill that we are laying out actually has a
10 secondary choice. Then if someone doesn't have a
11 photo ID, there is a secondary choice to identify
12 themselves.

13 I should also clarify that we are only
14 addressing the in-person voting; we are not addressing
15 mail-in ballots, early voting, any of the other things
16 in the election cycle.

17 I think I'm going to go ahead and close
18 so we can start either the questions and/or bring in
19 the witnesses. But I think it's important to note
20 that in upholding Indiana's photo ID law, in the
21 decision that was given by John Paul Stevens in his
22 majority opinion, he stated, "Confidence in the
23 integrity of our election process is essential to the
24 functioning of our participatory democracy. Voter
25 fraud drives honest citizens out of the democratic

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1 process and breeds distrust of our government. Voters
2 who fear their legitimate votes will be outweighed by
3 fraudulent ones will feel disenfranchised."

4 We believe Senate Bill 362 goes a long
5 ways for correcting that concern.

6 **QUESTIONS FROM SENATE FLOOR**

7 SEN. DUNCAN: Thank you.

8 Sen. Lucio of Cameron.

9 SEN. LUCIO: Thank you, Mr. President.
10 For a question.

11 SEN. DUNCAN: Sen. Lucio.

12 SEN. LUCIO: The request was made
13 earlier today to see if we could have the Attorney
14 General here to answer any legal questions we might
15 have on this legislation. As I look around the
16 chamber, I don't see the Secretary of State, my good
17 friend Hope Andrade who I can -- well, who is the
18 Chief Elections Officer of the state, as you well
19 know. And I'm wondering if she will be present maybe
20 to respond to any questions that the members might
21 have, or the Department of Public Safety or any other
22 agency that might come into play with this piece of
23 legislation. Will that be the case?

24 SEN. FRASER: I'll address the first
25 question first. The Secretary of State, I share your

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1 interest in that. And, actually, when that person
2 comes up, I have a lot of questions that I would like
3 to ask also. Unfortunately, the Secretary of State,
4 Hope Andrade, is on an airplane as we speak, out of
5 the country. But the No. 2, the Assistant Secretary
6 is here. Coby Shorter is over on the side right now
7 and will be available for any questions that would
8 come up.

9 Actually, that is one of my invited
10 persons for questions. I have him scheduled in the
11 mix. But I think any member that has a question of
12 the Secretary of State's office would be free at any
13 time for a resource.

14 The DPS, I have not personally asked
15 them to be here to testify, but I believe probably
16 they're monitoring this as we speak. And I would
17 suspect if we wanted somebody from the DPS to answer
18 questions about motor voter or any of those issue, I
19 feel sure that we could get them over. I have not
20 invited them.

21 SEN. LUCIO: Thank you.

22 Mr. Chairman, you also mentioned that
23 voter ID proposal for bipartisan and serve the public
24 interest by protecting the integrity of the ballot,
25 and you also mentioned the Commission on Federal

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1 Election reform that was co-chaired by former
2 President Jimmy Carter and former Secretary of State
3 Jim Baker supported laws that required voters to show
4 a voter ID before voting.

5 I just want to ask you that, that in the
6 days after the release of the commission's report, I'm
7 informed that President Carter and former Secretary
8 Baker stated in an op ed in the New York times that
9 their intent had been misconstrued and clarified that
10 until we have universal registration, we cannot make
11 having such an ID be a condition of voting. Are you
12 aware of that op ed?

13 SEN. FRASER: Tell me, where was that?

14 SEN. LUCIO: That op ed?

15 SEN. FRASER: What was the date on that?
16 Tell me the date on that, please.

17 SEN. LUCIO: The source is Jimmy Carter
18 and James Baker III, "Voting Reform Is in the Cards,"
19 The New York Times, September 23rd -- September 23,
20 2005.

21 SEN. FRASER: And I guess I would
22 defer -- I obviously can't get in the minds -- and, by
23 the way, we do have someone from that commission here
24 that we can question, will be the second person that I
25 will call up. And so you'll have the right to ask

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1 them, because they're from that commission.

2 All I can go by is a newer -- you know,
3 everyone has a right to, you know, their developing
4 thoughts. But the newest thing I have on record was
5 February 3, 2008. It was an op ed contribution, "A
6 Clearer Picture on Voter ID" by Jimmy Carter and James
7 A. Baker III, which I'm assuming -- February 3, 2008
8 is after September 23, 2005. So this would be their
9 more current thoughts.

10 And in that current editorial that I
11 have here in my hand, it said, "In 2005, we led a
12 bipartisan Commission . . ." And I'm not going to
13 read the whole thing, but it says: "We bridged a
14 partisan divide by suggesting a uniform voter photo
15 ID." And this is February 8 (sic), 2008.

16 SEN. LUCIO: 2008?

17 SEN. FRASER: 2008. Yours is 2005. So
18 I don't know what to say, other than my story is three
19 years newer than yours.

20 SEN. LUCIO: Well, I guess they changed
21 their minds after two thousand --

22 SEN. FRASER: Everybody gets to change
23 their mind. All I know is that this is the most
24 current thing that I have on file. But that was a op
25 ed contribution to the New York Times February 3,

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1 2008, you know. I'm --

2 SEN. LUCIO: Thank you very much,
3 Senator.

4 SEN. FRASER: Thank you.

5 SEN. WATSON: Mr. President?

6 SEN. DUNCAN: Sen. Watson of Travis.

7 SEN. WATSON: Thank you, Mr. Chairman.

8 I just want to ask a couple of question.

9 And first, let me say that I think you
10 and I probably agree that there is not a senator in
11 this room that doesn't want to protect the sanctity of
12 the ballot box, regardless of how they might feel
13 about 362.

14 SEN. FRASER: I would share we, without
15 a doubt -- we've had this conversation -- is that I
16 think we both have the same intent, is that neither
17 one of us want voter fraud and we would do anything we
18 could to stop voter fraud in Texas. And I think
19 that's --

20 SEN. WATSON: Nobody wants --

21 SEN. FRASER: I think we agree with
22 that.

23 SEN. WATSON: Nobody wants voter fraud.
24 And there may be some disagreements about how we go
25 about that. Let me ask a couple of questions about

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1 the bill. And first let me mention something about
2 the Carter-Baker Commission. I'm not sure there was a
3 change in opinion. But what they said in that
4 February 2008 is, they were looking for a universal
5 voter identification. Is that correct?

6 SEN. FRASER: I believe the term was
7 "uniform" --

8 SEN. WATSON: Uniform.

9 SEN. FRASER: -- "voter ID." And,
10 actually, what they suggested --

11 SEN. WATSON: Was REAL ID.

12 SEN. FRASER: -- is that the federal
13 government would issue a photo ID to every person in
14 the United States.

15 SEN. WATSON: And what they've actually
16 indicated is that in order to be in favor of a uniform
17 voter ID, they believe that what needs to happen is,
18 the government would be in a position to give everyone
19 an identification so that you wouldn't run into
20 situations where there might be discrimination. Is
21 that correct?

22 Well, for example, they're affirmatively
23 said --

24 SEN. FRASER: They have affirmatively
25 said that somebody should pay for it, the federal

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1 government or the states, but they would issue a photo
2 ID.

3 SEN. WATSON: So that everybody would
4 have a uniform identification?

5 SEN. FRASER: Exactly what I'm laying
6 out in this bill.

7 SEN. WATSON: And I don't disagree.

8 SEN. FRASER: I --

9 SEN. DUNCAN: Senators, senators --

10 SEN. FRASER: I can answer you. Just a
11 second.

12 SEN. DUNCAN: May I interrupt?

13 SEN. FRASER: Sure.

14 SEN. DUNCAN: You've got a court --

15 SEN. WATSON: Well, we're both
16 interrupting. Why don't you?

17 SEN. DUNCAN: Well, no. I'm just trying
18 to help you out. The court reporter can only type
19 down one person talking at a time, and so you have a
20 tendency --

21 SEN. WATSON: Fair enough.

22 SEN. DUNCAN: -- to talk over each
23 other. So if you could observe that rule, it will
24 help the record.

25 SEN. WATSON: And we do that even in

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1 private conversations, I might add.

2 SEN. FRASER: Unfortunately, we are on
3 the committee together, and this is a common
4 occurrence, so we will have to try to control
5 ourselves.

6 SEN. WATSON: I think you were the last
7 one talking.

8 SEN. FRASER: The final statement, I
9 think they say -- let me read this. Actually, it's
10 interesting that the last -- this was in -- they were
11 writing this in response, urging the Supreme Court to
12 validate the Indiana law. And it says that -- they
13 are suggesting that states should move to implement
14 photo IDs gradually, that a free ID should be
15 available. But they're also saying that the Supreme
16 Court can lead the way on the voter ID issue by
17 validating the Indiana ruling, which is the photo ID.

18 And, again, it's the thing I just read.
19 It will move ". . . our national leaders and the
20 entire country to bridge the partisan divide on a
21 matter that is important to our democracy." The
22 Supreme Court should ". . . support voter ID laws that
23 make it easy to vote but tough to cheat," from their
24 editorial.

25 SEN. WATSON: And they had indicated --

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1 I'm sure we'll hear some other testimony about this.
2 But the Carter-Baker Commission had indicated that
3 they believed the way Georgia had set theirs up was
4 discriminatory in part because the government wasn't,
5 as you just indicated, making it easy for people to
6 be -- all people to be able to get a uniform
7 identification.

8 SEN. FRASER: They want it to be easy
9 to -- their suggestion was have a photo ID, have
10 someone pay for it, make it easy for them to get it.
11 But they say, "Here is what we want to do. We want a
12 voter ID law that makes it easy to vote but tough to
13 cheat."

14 SEN. WATSON: Well, let's talk about
15 what the current situation is so that we can be clear
16 on what it is that we would be doing if Senate Bill
17 362 were to pass. Currently we have a form of voter
18 identification in Texas. And what it is, is we have
19 an identifying document that we call a voter
20 registration certificate. Isn't that right? The
21 state provides a voter registration certificate to
22 those who register to vote?

23 SEN. FRASER: The answer to that
24 probably is "Yes" and "No," is that the way we
25 currently identify ourself when we go in is a voter

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1 registration certificate. The problem with current
2 law is, there is no way that that person that is
3 behind the voting booth knows, "Are you really that
4 person?" because -- hold on a second -- you know,
5 there is nothing to say that I couldn't pick up my
6 brother Steve's voter ID and walk in and lay it on the
7 table and the -- we're going to ask the Secretary of
8 State this -- but I think the procedure in law says
9 identify:

10 Are you on the list? Yes.

11 Is this your correct address? Yes.

12 Are you in this precinct? Yes.

13 Here is your ballot -- even though I'm
14 voting with my brother's card.

15 SEN. WATSON: I ought to give you a flag
16 so I know when you're done. But, Senator, the point
17 is, I want to try to set what the benchmark is for
18 what is required now when someone goes in to vote.
19 And when someone goes in to vote right now, as you
20 just indicated, all they have to do is show that
21 certificate. The election officer sees their name and
22 sees that their name is on a list of registered
23 voters, and then they're able to vote. Is that
24 correct?

25 SEN. FRASER: Well, let me ask you --

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1 the Secretary of State will clarify this. But if
2 you're look in Section -- is 63.001?

3 SEN. WATSON: It is.

4 SEN. FRASER: -- of the election -- and
5 if you've got it in front of you, you can read along.
6 It says bring your card, registration card, hand it to
7 them. They verify: Is the name on the card on the
8 list? Is Kirk Watson on the card? Are they also
9 listed as registered? Yes, it is. They say,

10 "Is this your current address?"

11 "Yes, it is."

12 "This is the proper precinct you're
13 going to be voting in?"

14 "Yes, it is."

15 "Here is your ID (sic)."

16 SEN. WATSON: And then you get to vote.

17 SEN. FRASER: I mean, "Here is your" --
18 can I keep going, though? The interesting thing on
19 this, though, is, Senator, that -- let me give you a
20 hypothetical -- and we'll ask the Secretary of State
21 to verify this -- is that let's assume that they
22 mailed you your voter registration to your mailbox,
23 but your next door neighbor saw them dropping it off
24 and he walked over and picked it up out of box. And
25 he beat you to the polling place. And he walked in

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1 where someone didn't know who Kirk Watson was and he
2 laid it on the table, and he said, "I'm Kirk Watson,"
3 and they went through all those scenarios, that person
4 would be given a ballot and would vote for you, that
5 put it in the pile. And they would walk out the door,
6 and that vote would count in the selection. Now,
7 we'll verify with the Secretary of State that that's
8 correct, but I believe that's the way it happens right
9 now.

10 SEN. WATSON: And that really wasn't my
11 questions. So let me ask my --

12 SEN. FRASER: I'm practiced with a
13 lawyer where you don't answer the question that was
14 asked.

15 SEN. WATSON: I notice you've been
16 trying to do that. Let's just walk through what the
17 process is and the change in the law. Currently all
18 that is required is to show the certificate, walk
19 through the way you just did, and then you can vote.
20 Senate Bill 362 changes that.

21 And it says that while you would still
22 submit the voter registration certificate and that
23 part is the same, it then adds the requirement that in
24 addition to the current standard practice or procedure
25 of presenting that voter registration certificate, you

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1 must also submit either a picture identification or
2 two types of other identification that's listed in
3 Senate Bill 362.

4 SEN. FRASER: Senator, I guess I would
5 ask you -- I'm assuming -- you travel a lot. You've
6 flown since 911?

7 SEN. WATSON: I'm not sure how that is
8 answering my question. Is that what your bill does or
9 doesn't do?

10 SEN. FRASER: I'm saying that this is
11 going to be a whole lot like -- even if you were
12 getting a library card, they're going to say, "We need
13 a form of photo identification, and they're going to
14 do -- like they do at the airport, they're going to
15 look at the card, they're going to look at you,
16 they're going to look back at the card and say, "Yes,
17 you are the person that you are pretending," or "you
18 say you are. You" -- Kirk Watson is the person on the
19 photo; kirk Watson is the person on the registration
20 files. And the answer is yes, that would be the way
21 this would work.

22 SEN. WATSON: So the answer is yes, that
23 there is an additional requirement so that people who
24 could vote under the current voting standard practice
25 and procedure will be precluded from voting if they

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1 don't meet these new requirements. Is that correct?

2 SEN. FRASER: I'm sorry. I was talking
3 to staff. Ask that again, please.

4 SEN. WATSON: People who could vote
5 under the current voting standard practice and
6 procedure will be precluded from voting, if Senate
7 Bill 362 passes, if they don't meet those new
8 requirements?

9 SEN. FRASER: No one is going to be
10 precluded from voting. Everyone that walks in --
11 under 362, every person that walks in to vote will be
12 allowed to vote.

13 SEN. WATSON: If they meet the new
14 requirements?

15 SEN. FRASER: Every person that --

16 SEN. WATSON: That's provisional
17 balloting.

18 SEN. FRASER: -- walks in --

19 SEN. WATSON: Is that what you're
20 talking about?

21 SEN. FRASER: Every person that walks
22 into the registration to vote can vote. No one will
23 leave the voting place without being able to vote.

24 SEN. WATSON: Let me ask my question
25 differently. If they don't -- if someone walks in

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1 today, under 362 -- let's say 362 passes -- and they
2 don't have the new requirements that are set forth in
3 362, they will not be able to vote a regular ballot
4 the same way people today, with just a voter
5 registration certificate, are allowed to vote a
6 regular ballot?

7 SEN. FRASER: Okay. If someone walks in
8 and -- I think right now the data is showing the last
9 year of the people that signed up, 98.5 percent of the
10 people that registered to vote had a driver's license
11 and they registered that way. So if they didn't have
12 that, if they're one of that one or two percent that
13 did not have a driver's license, they have a long
14 laundry list of things that they could use to identify
15 themselves to show that they are, in fact, who they
16 say they are. If for some reason they didn't have any
17 of that, they will be given a ballot. The ballot will
18 be marked a provisional ballot, and then we will have
19 the ability then to identify: Are they who they say
20 they are? So the answer is no, they're not going to
21 leave without being able to vote.

22 SEN. WATSON: And maybe I didn't ask my
23 question well and so you didn't understand it. My
24 question is, under 362, if they don't meet the new
25 requirements, there will be people that otherwise

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1 today would be able to vote by just showing a voter
2 registration certificate that will not be able to vote
3 a regular ballot. Is that correct?

4 SEN. FRASER: Everyone leaving the
5 polling place will be able to vote.

6 SEN. WATSON: But it may be a
7 provisional ballot. Is that right?

8 SEN. FRASER: Provisional ballot,
9 though, once they verify their identification and they
10 show that they are who they say they are, the vote
11 counts. So the answer is, everyone that leaves will
12 be able to vote.

13 SEN. WATSON: Let me ask you a question
14 about the statistics you just mentioned. Do you have
15 any data regarding the racial composition of those
16 people who are currently in Texas that are without a
17 driver's license or other photo ID?

18 SEN. FRASER: Unfortunately, no, that
19 data is not, I don't think, readily available. If it
20 is, no one has given it to me. All I can go by is the
21 number -- they gave me the raw numbers of who had a
22 photo ID that was registered in, you know, the last
23 year. 2006 is the latest number. And of those, you
24 know, you had 1.5 percent of the population that
25 registered to vote that it appeared didn't have or

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1 didn't offer their driver's license up as a deal. So
2 it's a very small segment, and I don't believe they
3 broke down the racial composition of that.

4 SEN. WATSON: Where did that data come
5 from?

6 SEN. FRASER: DPS, motor voter.

7 SEN. WATSON: DPS. And how many people
8 would that be?

9 SEN. FRASER: I may need to correct
10 that. I stand corrected. That came from the
11 Secretary of State's office. It was the total number
12 of people registered with a Texas driver's license.
13 I'm sorry. I stand corrected.

14 SEN. WATSON: Let me make sure I
15 understand the number that you're indicating. What
16 you're indicating is that of the total population
17 that's registered to vote, the Secretary of State's
18 office is providing data that says 98.5 percent of
19 those have a driver's license?

20 SEN. FRASER: I don't think I said that.

21 SEN. WATSON: Okay. Well, that's what
22 I'm trying to find out. I want to be clear what you
23 said.

24 SEN. FRASER: Okay. Well, let's do it
25 again. Last year, in 2006, the number of people that

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1 registered to vote in 2006, that registered to vote
2 that year, of those totals, there were 2,419,188 that
3 registered with a driver's license. There were 37,490
4 that didn't use their driver's license to register.

5 SEN. WATSON: So that would not --

6 SEN. FRASER: So that --

7 SEN. WATSON: That wouldn't be taking
8 into account any long-time voters who might no longer
9 have driver's licenses or have allowed their driver's
10 license to be expired for more than two years or that
11 nature. Is that correct?

12 SEN. FRASER: I actually have that data,
13 too.

14 SEN. WATSON: Good. Why don't you give
15 that to me.

16 SEN. FRASER: Total number of people on
17 their staff -- now, have to keep in mind that some of
18 these people that have been on the rolls for 30, 40,
19 50, 60 years, some of this has changed. And so some
20 of them that signed up, once they were okayed and
21 identified, they stayed on the roll and they didn't
22 have to add it.

23 My mother would be a good example, but
24 she didn't get her driver's license until well into
25 her married life. On her registration form, she is

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1 not registered as showing to have a photo ID; but, in
2 fact, I do know that she has one. The ones in the
3 records that show that, they show that there were
4 5,601,000 that have a license. The ones that neither
5 numbers show up, either social security number or
6 voter ID, 809,000. So in their records, it's about
7 88 percent of the people, in their records, give the
8 driver's license as their identification source.
9 There's 12 percent they don't know about. But in
10 that, the assumption is, a great many of those now
11 have a photo ID, people like my mother.

12 SEN. WATSON: But we don't know what
13 that number is?

14 SEN. FRASER: We don't know for sure.

15 SEN. WATSON: And how many people are we
16 talking about when we talk about 12 percent?

17 SEN. FRASER: Well, in the records, they
18 have 809,041 that they don't have in their records a
19 number registered, but they also readily will admit
20 that those records are very outdated because what
21 happens when someone is registered, as soon as they're
22 approved as a registered voter, they don't ever have
23 do go through this again. So --

24 SEN. WATSON: Right.

25 SEN. FRASER: You can't automatically

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1 make the assumption that there's 809,000 people that
2 don't have it. I think the belief -- probably one of
3 the things that we may be having a lot of these
4 questions you're asking that could be answered by
5 other states. Georgia has a very close makeup of the
6 way our population is made up. Indiana is a little
7 different. But in those cases -- I think the
8 registrar of both of those states are going to be
9 here, and they're going to tell you they went through
10 the cycle and identified the ones that didn't have it.
11 And I believe they're going to tell you they were
12 shocked at how few people didn't have a photo ID.

13 SEN. WATSON: Well, one of the things
14 that I think we need to be concerned about before we
15 vote on this floor is whether or not, when the changes
16 that you propose get made, whether or not that's going
17 to have a negative impact on certain populations. And
18 the 12 percent that you're talking about there, the
19 800,000 to a --

20 SEN. FRASER: The unknown category.

21 SEN. WATSON: The 800,000 to a million
22 people, do we know what the racial breakdown is of
23 that? Do you know how many African-Americans, how
24 many Hispanics, those that speak only Spanish?

25 SEN. FRASER: I'm not advised, because I

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1 don't -- at least I don't remember on the -- I can't
2 remember on either the driver's license and/or the
3 voter that it had a place in there to click, you know,
4 Anglos.

5 SEN. WATSON: Are you familiar,
6 Senator, with any statistical analysis that's been
7 done regarding the potential effect of Senate Bill
8 362's new requirements on African-Americans?

9 SEN. FRASER: A lot of what I'm at least
10 observing, you will hear today from Indiana and
11 Georgia, two states that implemented it. And they're
12 going to talk about the people that voted in the
13 racial breakdown before they implemented it and after
14 they implemented it and what happened in --

15 SEN. WATSON: Again, I would --

16 SEN. FRASER: So I think -- what I'm
17 hoping to do is have facts speak for themselves.

18 SEN. WATSON: Well, and I'm looking
19 forward to that. I'm saying you, though, with regard
20 to your bill, Senate Bill 362, are you familiar with
21 any data or study that's been done with regard to some
22 sort of statistical analysis concerning the effect of
23 the new requirements of Senate Bill 362 on -- and I'll
24 just mention a couple of populations -- African-
25 American population, Hispanic, people making less than

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1 \$35,000 a year, people who speak only Spanish, any
2 statistical analysis of the effect of these new
3 requirements on those people?

4 SEN. FRASER: Well, I guess the
5 assumption would be, the people in Texas, even though
6 we're independent, we're also a whole lot like the
7 people in the rest the nation. Those statistics are
8 available nationwide, because we already have this
9 being implemented other places. We're going to have
10 witnesses that are going to testify to that. And I
11 think you're asking a subjective question that we have
12 objective data that is available that the witnesses
13 are going to lay out. You're asking have I done that?
14 The answer is no, but I am pulling data from the
15 academics that have done that and have delivered back.

16 SEN. WATSON: As it applies to Texas?

17 SEN. FRASER: Well, you assume it would
18 apply to Texas, if they're citizens of the United
19 States. And, you know, I don't know why it wouldn't
20 apply.

21 SEN. WATSON: Well, so that I'm clear,
22 what we can expect to hear is data related to states
23 other than Texas. But you're not familiar with any
24 statistical analysis that's been done regarding the
25 impacts or effects of the new requirements of Senate

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1 Bill 362 on minority populations in the State of
2 Texas?

3 SEN. FRASER: Actually, Senator, you're
4 going to hear some testimony from some people from the
5 major cities in Texas and things that have happened
6 and what, you know, possibly they believe. But I
7 don't know that I can answer your question.

8 SEN. WATSON: All right. Fair enough.
9 Let me ask a quick question about funding under this.
10 Can you point me in this bill, Senate Bill 362, where
11 there is any provision to educate voters about this
12 change requirement for more identification?

13 SEN. FRASER: Do you see the section
14 that says "Education" --

15 SEN. WATSON: Yes, I do.

16 SEN. FRASER: -- "Voted Education"?

17 SEN. WATSON: And tell me -- what that
18 says is that the Secretary of State and voter
19 registrars are going to put it on their website. Is
20 that correct?

21 SEN. FRASER: Yes.

22 SEN. WATSON: Is that the only education
23 that's identified in this bill?

24 SEN. FRASER: We are anticipating a --
25 you know, we're going to have to educate not only the

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1 registrars, the poll workers, we're going to have
2 posting outside of the voting place of the
3 requirements of this. I would assume one of the
4 things that you're going to ask is, in Ohio and
5 Georgia, both that they had mailers to the voters
6 talking about these changes. Obviously, the specifics
7 of that are not included in this bill. But as a
8 member of the Senate and assuming this bill passes,
9 that I think I am assuming everyone in this body would
10 be sympathetic, that we should include some funding to
11 make sure that voters are educated.

12 SEN. WATSON: So you anticipate that
13 there would be some fiscal note to this bill?

14 SEN. FRASER: Well, no. This bill only
15 has -- it has no fiscal implications.

16 SEN. WATSON: And that's because there's
17 no money put into it for any of the things you just
18 talked about in terms of educating voters?

19 SEN. FRASER: And again, if there was
20 education, obviously, the education, depending on how
21 much education it was, there could either be no fiscal
22 impact or it could be some. Again, you're being
23 subjective.

24 SEN. WATSON: All right. I'm not sure
25 that's the case, but let me make sure I'm clear.

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1 Under the current bill, there's not any ability to
2 educate the voters about these new requirements, other
3 than that it would be posted on the Secretary of
4 State's or a county voter registrar's website?

5 SEN. FRASER: We would -- actually --
6 let me ask a question of staff.

7 (Brief pause)

8 I think the question you're asking is
9 that every time a registration card is sent out, there
10 will be an explanation with that registration card,
11 which I'm assuming you're calling the education part
12 of that. So the answer is yes, there will be an
13 education go out when the registration cards are- sent
14 out. So a person's --

15 SEN. WATSON: So if somebody registers
16 newly, they'll get that information?

17 SEN. FRASER: I get a registration card
18 every two years.

19 SEN. WATSON: So every time that -- what
20 you're suggesting is, that's going to be -- the
21 substance and sum of the education will be on new
22 registration cards?

23 SEN. FRASER: And, quite frankly, you're
24 getting into an area of the technical part of the way
25 this would be administered by the election division.

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1 In the bill we do specify that when a registration
2 card is sent out. All I know is, I get one every two
3 years, I get a new registration card. It couldn't be
4 real difficult in that to include an explanation of
5 this bill, what will be included, and make sure that
6 they understand that whenever they show up at the
7 polls, you need to do this.

8 So the answer of -- the language of the
9 bill says that is anticipated. Now, the actual agency
10 itself that administers, the Secretary of State's
11 office, I think probably would be the one to answer
12 that question.

13 SEN. WATSON: And we don't know -- you
14 don't know, as we stand here today, how much that
15 costs?

16 SEN. FRASER: What it will cost? Well,
17 right now we have given them funds to send out that
18 registration card. And if all they're doing is
19 putting another piece of paper in that registration
20 card, I just can't imagine that they can't take care
21 of it out of their regular budget.

22 So I think where you're trying to go --
23 will there be an appropriation for that? -- I don't
24 anticipate that that's necessary. But you're a member
25 of this body. And if you want to recommend that,

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1 after this bill passes, that if you want to offer up
2 to the Appropriation Committee and talk to Chairman
3 Ogden, I think you have every right to do that. I
4 can't speak for the Secretary of State the way this
5 will be administered.

6 SEN. WATSON: Well, I'm just accustomed
7 to when bills come into committee, we tend to know or
8 are supposed to know what the fiscal note is at that
9 time so that we don't vote on something, only to later
10 have a new fiscal note come in.

11 SEN. FRASER: Did you get a copy of the
12 fiscal note?

13 SEN. WATSON: Yes, and it said zero.

14 SEN. FRASER: There is your answer.

15 SEN. WATSON: Well, and what that means
16 is, there's going to be little education, and we'll
17 talk about -- Chairman Duncan has made a good point,
18 that the court reporter has now been going -- and
19 while you and I may be enjoying our repartee, she
20 probably needs a break.

21 So with the Chair's permission and with
22 Sen. Fraser's permission, I'll be more than happy to
23 yield the floor for the time being so that we can take
24 a break for the court reporter.

25 SEN. DUNCAN: Thank you, Sen. Watson.

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1 And, members, we'll stand at ease for 10 minutes.

2 We'll go back in at exactly 2:50.

3 (Recess: 2:42 p.m. to 2:56 p.m.)

4 SEN. DUNCAN: The Committee of the Whole
5 will come back to order.

6 Sen. Watson.

7 SEN. WATSON: Mr. Chairman, I'll yield
8 for other staff's questions, so we can move forward.

9 SEN. DUNCAN: All right.

10 Sen. Shapleigh.

11 SEN. SHAPLEIGH: Thank you, Mr. Chair.

12 If I may, some questions of the author.

13 SEN. FRASER: I would love to answer
14 questions.

15 SEN. SHAPLEIGH: Senator, you, in laying
16 out your basis for filing this bill, talked
17 extensively about the Carter and Baker Commission. Do
18 you remember the year that commission -- when they
19 issued their report?

20 SEN. FRASER: Senator, there is a
21 reference in the forward to the report that I believe
22 says 2005. And I'm assuming the Commission was formed
23 that year, and I'm assuming they also issued the
24 report. But I'm also going to punt on that one,
25 because we have someone from the Carter-Baker

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1 Commission that is here, that if we can get past these
2 questions and get to our witnesses, I've got people
3 that can answer that question a lot better.

4 SEN. SHAPLEIGH: Okay. You quoted from
5 their words in an op ed article. And what I would
6 like to do is give you a copy of an op ed article that
7 they put in The New York Times one week after issuing
8 the report, so that we can talk about what their
9 intent or what they thought about this report. You
10 have their -- what we just pulled off what Sen. McCain
11 would call the Google, an editorial from Jimmy Carter
12 and James Baker themselves dated September 23, 2005,
13 which was the week after they produced this report.
14 And I would like you to, if you would, see if I'm
15 reading this correctly.

16 "This week, we issued a report that
17 bridges the gap between the two parties' perspectives
18 and offers a comprehensive approach that can help end
19 the sterile debate between ballot access ballot
20 integrity. Unfortunately, some have misrepresented
21 one of our 87 recommendations. As a result, they have
22 deflected attention from the need for comprehensive
23 reform."

24 "Since we presented our work to the
25 president and Congress, some have overlooked almost

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1 all of the report to focus on a single proposal - a
2 requirement that voters have driver's licenses or
3 government-issued photo IDs. Worse, they have
4 unfairly described our recommendation.

5 "Here's the problem we were addressing:
6 24 states already require that voters prove their
7 identity at the poll - some states request driver's
8 licenses, others accept utility bills, affidavits or
9 other documents - and 12 others are considering it.
10 This includes Georgia, which just started demanding
11 that voters have a state-issued photo ID, even though
12 obtaining one can be too costly or difficult for poor
13 Georgians. We consider Georgia's law discriminatory."

14 Are these the same guys that issued the
15 report that you're relying on?

16 SEN. FRASER: And I guess I would remind
17 you that the Georgia law, they're a Section 5 voter
18 rights state, and they were approved. As of
19 February 8, 2008 of this year, I believe they were --
20 that final appeal was -- you know, they ruled with
21 Georgia. And Georgia's act -- both was approved
22 through DOJ, approved through Section 5 and was
23 approved through the courts.

24 Again, I don't -- all the things that
25 you're asking, you address several different issues

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1 that we have witnesses here that actually know the
2 details of this. You're asking me, from 2005, to get
3 in either President Carter or James Baker or staff or
4 the other 21 members on the commission, what was in
5 their head then and what was in their head in 2008
6 when they released the article to The New York Times,
7 the guest editorial. I think those would be better
8 answered by our witness that is here that is sitting
9 in the back waiting to testify. We also have Indiana,
10 and we've got those Georgia people. There's two from
11 Georgia that will tell you how this impacted their
12 voters, including minorities.

13 SEN. SHAPLEIGH: Let's go if we can --
14 do you have the fiscal note on this bill, the one that
15 came with our packet? I'm looking at the last
16 paragraph that describes the costs in this bill and
17 what the anticipated fiscal note might be.

18 SEN. FRASER: I've got it. What are you
19 referring to?

20 SEN. SHAPLEIGH: Well, when you look at
21 the top, it says "No fiscal impact implication to the
22 state is anticipated." Is that correct?

23 SEN. FRASER: That is correct.

24 SEN. SHAPLEIGH: And when we look at the
25 bottom, after it describes putting up a website which

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1 would be part of the state's obligation, then at the
2 bottom it says, "Based on responses from a sampling of
3 election authorities and county clerks, fiscal impact
4 from implementing provisions of the bill would vary by
5 county. Costs would include at a minimum those for
6 printing signs to post at each polling place, which
7 would not be significant. Other potential costs would
8 be associated with additional training and posting
9 information to the county website. Again, those costs
10 are not expected to be significant. One smaller
11 county response anticipates that the new provisions
12 regarding casting a provisional ballot would require
13 hiring additional staff, resulting in a moderate to
14 significant cost."

15 Now, my question is, where is the
16 training going to be done? Who will do the training
17 with respect to those that will administer and enforce
18 the rules that you propose to pass today?

19 SEN. FRASER: And I will tell you again
20 that we have an expert resource witness that can
21 answer that question, that if we can get on with the
22 testimony, that the persons we have here I think are
23 prepared to answer that question.

24 SEN. SHAPLEIGH: But as the author of
25 the bill -- and your intent is important in

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1 establishing this -- in this fiscal note, there is no
2 money for training at the state level, that in this
3 fiscal note it's contemplated that locals in a broad
4 verify of the polling places around the state would be
5 responsible for the training under this bill. Is that
6 correct?

7 SEN. FRASER: My intent of this bill is
8 to establish a system of voter identification to try
9 to eliminate fraudulent voting and would be
10 implemented by the Secretary of State. The fiscal
11 note to the bill is like we always do on every piece
12 of legislation. It is sent back in. And the fiscal
13 note, as delivered back to the members of the
14 Legislature, it says there is -- no significant fiscal
15 implication to the state is anticipated.

16 SEN. SHAPLEIGH: Okay. Well, let's get
17 down, if we may, to a "Yes" or "No" answer. The
18 fiscal note on your bill says, "Each county clerk
19 would be required to provide a session of training
20 using the standards adopted by and the materials
21 developed by the Secretary of State as soon as
22 practicable as well." Is that your intent under the
23 bill that you drafted?

24 SEN. FRASER: I guess I would refer you
25 back to the bill itself. We've got the training

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1 section, the wording of the bill. If you would
2 like -- I'll read it to you if you would like for me
3 to. But the wording of the bill is the instruction to
4 the Secretary of the State and the counties. And then
5 the Secretary of State would be -- I think it's their
6 job to implement. But, again, the expert witness can
7 answer that.

8 SEN. SHAPLEIGH: In your opening, in
9 talking about the need for this bill, you referred to
10 Cooke County, you referred to LBJ and Duval County.
11 Are you aware of and do you personally know Royal
12 Masset?

13 SEN. FRASER: And I guess I would ask
14 what Royal Masset has to do with Cooke County?

15 SEN. SHAPLEIGH: Well, nothing. But
16 your examples came from other places to lay the basis
17 for the need for this bill. And my question is, do
18 you know, were you aware that Royal Masset was the
19 political director of the Republican Party for 15
20 years?

21 SEN. FRASER: Well, I guess the fact
22 that I recognize that his name is Royal "Ma-say"
23 rather than Royal "Mas-et" would give some indication
24 that I know Royal "Ma-say."

25 SEN. SHAPLEIGH: So if Royal "Mas-et" in

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1 something that was posted on line last time this bill
2 came up, who was the political director of the
3 Republican Party, if he were to say, "Anyone who says
4 all legal voters under this bill can vote," doesn't
5 know what he was talking about and, "Anyone who says
6 that a lack of IDs won't discriminate against
7 otherwise legal minority votes" is lying, do you have
8 any way -- do you have any way of determining why he
9 would say that?

10 SEN. FRASER: I have no input.

11 SEN. SHAPLEIGH: If Royal Masset were
12 quoted in this account as saying, "In my involvement
13 with over 5,000 Republican candidates, I have never
14 seen one case of Republicans committing voter fraud,"
15 do you have any idea why he would say that?

16 SEN. FRASER: I am not advised.

17 SEN. SHAPLEIGH: If Royal Masset said in
18 his quote, "When voting in America is only allowed to
19 healthy and wealthy people than (sic) the America I
20 know is far sicker than my mother. House Bill 218" --
21 which is the bill that came up last session, identical
22 I believe to the bill that you're carrying -- "is a
23 direct descendent of poll taxes, and of allowing only
24 white male property owners to vote. In its effect it
25 is racist, barbaric, antidemocratic and contrary to

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1 everything that made America great."

2 Do you have any idea why a former
3 political director of the Republican Party would make
4 that statement?

5 SEN. FRASER: No other advice other than
6 to say that the three sources that I quoted in my
7 opening remarks, two were Democrats and one was a
8 left-leaning Supreme Court Justice that all make, you
9 know, comments the other direction. And, actually,
10 Rep. Steve Wolens commented about the fraud and the
11 voter harvesting that happened in a Democratic
12 primary. So I'm assuming people on both sides of this
13 issue have opinions.

14 SEN. SHAPLEIGH: Now, I think -- I
15 thought I heard you mention the name Karl Rove as
16 one --

17 SEN. FRASER: I don't think I mentioned
18 Karl Rove.

19 SEN. SHAPLEIGH: Okay. Let me ask, are
20 you personally, other than the hearsay statements from
21 Steve Wolens and others, are you personally
22 acquainted, do you know of any voter fraud, you
23 yourself?

24 SEN. FRASER: Well, the hearsay
25 statements, those were actually statements by Steve

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1 Wolens he made -- I think he made those on the House
2 Floor in laying out his bill, so I don't think those
3 are hearsay. He represented them as facts.

4 SEN. SHAPLEIGH: In connection with your
5 investigation and your desire to pass this bill, did
6 you talk to the Attorney General of the State of
7 Texas?

8 SEN. FRASER: Ask that question again.

9 SEN. SHAPLEIGH: In your investigation
10 of this bill as you worked it up, did you consult with
11 the Attorney General of the State of Texas?

12 SEN. FRASER: I guess I need a clear
13 question. You know, what -- "consult" is a very broad
14 lawyer term.

15 SEN. SHAPLEIGH: Did you talk to him?
16 Did you ask him about voter fraud?

17 SEN. FRASER: I talk to the Attorney
18 General quite often on a full range of issues.

19 SEN. SHAPLEIGH: Did you talk to him
20 about this issue?

21 SEN. FRASER: I have talked to the
22 Attorney General about a wide range of issues.

23 SEN. SHAPLEIGH: Did you talk to him
24 about voter fraud and the nature, scope and extent of
25 it here in Texas?

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1 SEN. FRASER: No.

2 SEN. SHAPLEIGH: Okay. Were you aware
3 that he did a rather extensive investigation searching
4 for voter fraud in Texas and spent approximately
5 \$1.4 million on that investigation?

6 SEN. FRASER: I guess I would dispute
7 the statement that you just made, is that the
8 Secretary of State was giving an appropriation of
9 \$1.4 million that they used in the special
10 investigation, unit investigation. Within that
11 \$1.4 million, it came from federal funds that were
12 spent on election fraud. The issues they used that on
13 was the Eldorado YZF Ranch case, the Texas Youth
14 Commission, the hurricane-related rapid response
15 efforts, the market manipulation and penny stock fraud
16 case, the ERCOT case, the cyber case, (inaudible)
17 unit, identity theft, public corruption, money
18 laundering and election fraud.

19 SEN. SHAPLEIGH: Okay. So I'm looking
20 at Attorney General Greg Abbott's press release from
21 March of 2006 where he announces, "In Texas, an
22 epidemic of voter fraud is harming the electoral
23 process and it's time we rooted it out." Do you
24 recall when he launched that investigation?

25 SEN. FRASER: I do.

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1 SEN. SHAPLEIGH: And reading further in
2 his press release, "At first glance, these might seem
3 to be like isolated events in far-flung towns. Step
4 back and the picture looks just as sinister as it did
5 60 years ago. For example, Texas has long been a
6 haven for paid political operatives who target seniors
7 and the disabled to handle their mail-in ballots for
8 them. Many of the cases referred to my office by the
9 Secretary of State fall into this category."

10 Do you remember that press release?

11 SEN. FRASER: And I think you're going
12 back and addressing the case of the Steve Wolens' bill
13 that he filed on the mail-in ballots, and I don't
14 think that particular issue has anything to do with
15 Senate Bill 362. My bill relates to the voter
16 identification issue when we're investigating --

17 SEN. SHAPLEIGH: Well, I --

18 SEN. FRASER: I make reference to the
19 Wolens bill because it is part of the fraud history
20 and voter fraud. But the investigation you're talking
21 about has nothing to do with the bill we're laying out
22 right now.

23 SEN. SHAPLEIGH: Well, here is his press
24 release. Here is the title of it: "Helping Stamp Out
25 Voter Fraud in Texas." That's exactly what you're

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1 bringing forward today. Right? Is that what you're
2 trying to address in your bill?

3 SEN. FRASER: Could we get a copy of
4 that? You're referencing something. We're looking
5 through. And for some reason -- is all the
6 information we have. For some reason I can't find
7 that one. We thought we had them all. But I'm sorry.
8 I don't have that one.

9 SEN. SHAPLEIGH: Okay. This is his
10 press release off of the website when he launched his
11 investigation in March of 2006.

12 SEN. FRASER: And, Senator, out of
13 fairness, I don't regularly go to the Attorney
14 General's website to read every press release that
15 comes out. So I'm sorry, I don't --

16 SEN. SHAPLEIGH: I understand. But
17 you're bringing a bill and you led this Senate to
18 believe and you're laying out the case for widespread
19 voter fraud in the State of Texas. And we've had, to
20 my knowledge in the last two years, one major
21 investigation by the Attorney General of the State of
22 Texas. And I want to get into exactly what that
23 widespread voter fraud looks like after that
24 investigation. That's where I'm going. That's what I
25 want to find out.

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1 So in this press release, he's laying
2 out the basis for widespread voter fraud, and he
3 launched -- his investigation spans, as you say, among
4 other things -- investigating other issues,
5 \$1.4 million. And by my account here, that
6 investigation produced exactly 13 indictments. Twelve
7 of the 13 were minorities; nine, Hispanics; three,
8 African-Americans. Thirteen of 13 of the indictments
9 were Democrats. Now, do you have any reason to
10 dispute those numbers with us here today?

11 SEN. FRASER: Yes, I do. The exact
12 numbers are 30 suspects, 22 that have already been
13 prosecuted.

14 SEN. SHAPLEIGH: In terms of the
15 indictments, when he brought the indictments --

16 SEN. FRASER: Indictments on 30
17 suspects.

18 SEN. SHAPLEIGH: How many of those were
19 minority?

20 SEN. FRASER: I'm not advised.

21 SEN. SHAPLEIGH: How many of those were
22 Democrats?

23 SEN. FRASER: I'm not advised. I don't
24 know that they asked him what their --

25 SEN. SHAPLEIGH: Well, do you have any

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1 witness here today who can confirm how many of those
2 were minorities and how many were Democrats?

3 SEN. FRASER: I have not called a
4 witness, you know, for that. It's possible that -- we
5 have two people from the registrar's office in
6 Houston, and I know Houston was one of the places that
7 had a problem. And I would suggest that you ask the
8 expert witness from the Houston registrar's office. I
9 suspect they probably would have some information.

10 SEN. SHAPLEIGH: Well, I think this
11 issue of that investigation is the proof that we have
12 of how widespread fraud is in the State of Texas. I
13 think we have a perfect right to ask those questions.
14 And I want to know if you as a chairman will
15 participate with us in getting a live witness that we
16 can ask about those cases on this floor?

17 SEN. FRASER: And I'm being advised --
18 let me just confirm.

19 (Brief pause)

20 I'm being advised that the Attorney
21 General's office is willing to answer your question,
22 to clarify the questions you have.

23 SEN. SHAPLEIGH: And will that Attorney
24 General bring us, with time to review the file on each
25 of these 13 indictments so that we can determine for

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1 ourselves and can effectively cross-examine him or her
2 on the real nature of these cases? Will we have that
3 file in time to really do the job we need to do to get
4 at the heart of this massive voter fraud that we have
5 in the State of Texas?

6 SEN. FRASER: You know, I don't think
7 that the indictments on those -- we're in a case that
8 the ability to game the system by representing
9 yourself as someone else. I've got one area of the
10 voter fraud in this that we're addressing, and it is
11 voter ID, identifying that when you walk in for
12 in-person voting, you are who you say you are.

13 SEN. SHAPLEIGH: In connection with the
14 indictments brought, even your number, which differs
15 from my number, did a single one, would a single
16 indictment have been resolved by this photo ID or were
17 they all mail-in ballots or other issues?

18 SEN. FRASER: I am not advised. My goal
19 on this is to look at the law itself, of implementing,
20 people identifying themselves for the ability to vote.
21 We were looking at the Indiana law that is a strict
22 photo ID, the Georgia law that is a strict photo ID
23 that have been in place, Indiana for two election
24 cycles, Georgia for the last. And we're going to hear
25 from expert witnesses of how that not only didn't

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1 suppress voting, it actually increased voting because
2 it increased voter confidence.

3 SEN. SHAPLEIGH: So are you aware of any
4 other investigations, other than what Attorney General
5 Abbott has done here in Texas, with respect to voter
6 fraud?

7 SEN. FRASER: I'm not advised.

8 SEN. SHAPLEIGH: So if we hear from this
9 witness that's going to come here and share with us
10 the nature and extent of voter fraud in the State of
11 Texas, and not a single one relates to photo ID, will
12 that make a difference in the way you prosecute this
13 bill?

14 SEN. FRASER: Again, we're going to have
15 the expert witnesses come forward. But I think what
16 you're going to hear is the case -- or the example
17 that I used with Sen. Watson of someone stealing his
18 identification, going and voting and, you know,
19 representing themselves as Kirk Watson and being able to
20 vote.

21 I think what you're going to hear -- and
22 I don't want to put words in the mouth of the
23 Secretary of State or the other witnesses -- but I
24 think you're going to find that it is extremely hard
25 to identify and even harder to prosecute those cases,

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1 because we have a huge flaw in Texas law. We have not
2 given them the ability to even identify that someone
3 is breaking the law. And if you can't identify
4 they're breaking the law, then prosecuting that person
5 becomes even harder. So I think the point that's
6 going to be made through the testimony on this is that
7 we have a huge deficiency in current law in
8 identifying voters when they come for in-person
9 voting.

10 SEN. SHAPLEIGH: You had mentioned and
11 laid out some statistics on those that have photo IDs
12 in the State of Texas and said that your information
13 came from the DPS. Is that correct?

14 SEN. FRASER: I don't think I
15 represented anything came from DPS. I think the data
16 we had I represented came from the Secretary of State.

17 SEN. SHAPLEIGH: Okay. Are you aware of
18 any other data from Texas with respect to those that
19 hold photo IDs that are of voting age?

20 SEN. FRASER: Help me with that. I --

21 SEN. SHAPLEIGH: Well, for example, are
22 you aware of, say, the Texas Conservative Research
23 Institute's finding -- the Texas Conservative
24 Coalition Research Institute finding that 37 percent
25 of Texas residents over the age of 80 do not have a

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1 driver's license?

2 (Brief pause)

3 SEN. FRASER: I'm not advised. And I
4 don't think, unless they called every one of those
5 people, they could verify that. My mother is over 80
6 and she still has a driver's license, I believe, but
7 she votes by mail.

8 SEN. SHAPLEIGH: So which is the number,
9 the number that the Texas Conservative Coalition
10 Research Institute has for us, 37 percent don't have a
11 driver's license, or the number that you're bringing
12 to us?

13 SEN. FRASER: I don't think I brought
14 anything forward.

15 SEN. SHAPLEIGH: Okay. Thank you,
16 Senator. I look forward to another --

17 SEN. FRASER: You're cutting me short.
18 You told me that I would be here till midnight on your
19 questionings.

20 SEN. SHAPLEIGH: We've still got eight
21 hours.

22 SEN. FRASER: That's enough time.

23 SEN. SHAPLEIGH: We're ready.

24 SEN. FRASER: Thank you.

25 SEN. SHAPLEIGH: Thank you.

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1 SEN. DUNCAN: Sen. Zaffirini.

2 SEN. ZAFFIRINI: Thank you,
3 Mr. President.

4 SEN. FRASER: Is this a test to see if I
5 really have this information in the books?

6 SEN. ZAFFIRINI: Yes, it is. I'm going
7 to ask you questions about Page 218, Line 4, and what
8 it's on.

9 SEN. FRASER: The book that I shared
10 with you --

11 SEN. ZAFFIRINI: Yes.

12 SEN. FRASER: -- and showed you all my
13 data.

14 SEN. ZAFFIRINI: It's a wonderful book,
15 and I congratulate you and your staff for developing
16 such thorough information, very impressive. My staff
17 is not happy to know about it, however.

18 Sen. Fraser, you were the Senate sponsor
19 of House Bill 218 that never made it to the Senate
20 floor in 2007. Correct?

21 SEN. FRASER: That is correct. I was
22 the sponsor of the --

23 SEN. ZAFFIRINI: Do you know the main
24 differences, if any, between the bill that you
25 sponsored in 2007 and the bill that we are considering

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1 today regarding voter ID?

2 SEN. FRASER: I'm going to clarify with
3 staff. I think I know the answer, but . . .

4 (Brief pause)

5 I'm being advised that the bill that
6 we're filing is very, very close. There are very,
7 very small changes in the bill.

8 SEN. ZAFFIRINI: Well, that's what I
9 thought. I looked at the two bills and I looked at
10 the two bill analyses and I looked at the two fiscal
11 notes. But what surprised me more than anything is
12 that the bill that we considered in 2007 had a fiscal
13 note of \$671,000 in each year over a five-year period,
14 but the fiscal note for the bill that we are
15 considering today says "No Fiscal Implications."
16 Could you explain the difference in the fiscal note?

17 SEN. FRASER: Good research. And it's
18 exactly the same thing that I -- I looked at the two.
19 I asked the same question. We called about the fiscal
20 note. Evidently in the research of this -- and again,
21 we've got an expert witness that is sitting -- or they
22 were sitting right over here, the Secretary of State.
23 I think they will answer that. And I think the answer
24 is, again, I don't want to put words in their mouth,
25 but I think in doing more research, they found out

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1 that a lot of these things are available for them to
2 do within their current budget, and it does not create
3 additional expense.

4 SEN. ZAFFIRINI: Well, I certainly do
5 want to follow up with the LBB to ask them
6 specifically, since they write the fiscal notes, why
7 such an enormous difference. It's just amazing. I
8 would like the name of the person who developed the
9 new fiscal note. I might want to work with that
10 person for my bills.

11 SEN. FRASER: Well, as thorough as you
12 are on finance, because I've sat there and watched
13 you, and you do a wonderful job in looking at these.
14 And I know exactly the questions you'll be asking in
15 Finance, and I would encourage you to do that. But I
16 also, being a former member of Finance, did the same
17 thing, asked the questions. And my response back was,
18 is that after further examination, they realized that
19 this had no fiscal impact.

20 SEN. ZAFFIRINI: I'll be asking them to
21 look at some of mine further and see what they can
22 come up with.

23 SEN. FRASER: Thank you, Senator.

24 SEN. ZAFFIRINI: Thank you, Senator, for
25 that particular answer. But looking at the bill --

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1 and Senators Watson and Shapleigh touched upon these
2 issues -- there will be some costs to the local
3 officials, will there not -- the posting of signs, the
4 training will be provided by the state, but the local
5 officials will have to engage in a lot of
6 verification, participate in that training, the
7 posting of signs and development of material, or will
8 the state cover that expense?

9 SEN. FRASER: I expect that is; correct,
10 is that, you know. But that also is not unusual in
11 that the local elected officials, any time there is
12 something for notification, they do that. And so it's
13 not -- I'm being told not unusual, wouldn't be
14 expected.

15 SEN. ZAFFIRINI: There was much
16 discussion yesterday and today and even before that,
17 including by Sen. Duncan and Sen. Van de Putte,
18 Sen. West and others regarding the need for each side
19 to make a record, and then each side, those who
20 support this legislation and those who oppose it are
21 making a record for two purposes: No. 1, because a
22 lawsuit is expected; No. 2, because we will be dealing
23 with challenges before the Department of Justice.
24 Would you agree with that?

25 SEN. FRASER: You know, again, you're

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